

**SPECIAL COMMISSION MEETING  
ROLL CALL**

Wednesday, October 25, 1995  
Baton Rouge, LA  
Wildlife & Fisheries Building

	Attended	Absent
Perry Gisclair (Chairman)	<u>✓</u>	<u>   </u>
Glynn Carver	<u>✓</u>	<u>   </u>
Jeff Schneider	<u>   </u>	<u>✓</u>
Daniel Babin	<u>✓</u>	<u>   </u>
Joseph Cormier	<u>✓</u>	<u>   </u>
Jerald Hanchey	<u>✓</u>	<u>   </u>
Peter Vujnovich	<u>✓</u>	<u>   </u>

Mr. Chairman:

There are 6 Commissioners in attendance and we have a quorum.  
Secretary Herring is also present.

**LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES**

**SPECIAL BOARD MEETING**

**OCTOBER 25, 1995**

**PERRY GISCLAIR  
CHAIRMAN**

**BATON ROUGE, LOUISIANA**

The following constitute minutes of the Commission Meeting  
and are not a verbatim transcript of the proceedings.

Tapes of the meetings are kept at the  
Louisiana Department of Wildlife and Fisheries  
2000 Quail Drive

Baton Rouge, Louisiana 70808

For more information, call (504) 765-2806

**AGENDA**  
**LOUISIANA WILDLIFE AND FISHERIES COMMISSION**  
**BATON ROUGE, LOUISIANA**  
**OCTOBER 25, 1995**

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MINUTES OF THE MEETING

OF

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Wednesday, October 25, 1995

Chairman Perry Gisclair presiding.

Peter Vujnovich  
Joseph B. Cormier  
Daniel Babin  
Glynn Carver  
Jerald Hanchey

Commissioner Jeff Schneider was absent from the meeting.

Secretary Joe L. Herring was also present.

Chairman Gisclair stated the meeting was called for one particular item - Consideration of Declarations of Emergency and Notices of Intent and/or Amendment of Notices of Intent and Final Rules Listed Below: a) Commercial Fisherman's Assistance Program; b) Net Buy-Back Program; c) Saltwater Commercial Rod and Reel License; d) Spotted Seatrout Management Measures; e) Rules for Harvest of Mullet; and f) Rules for Harvest of Black Drum, Sheepshead and Flounder and Other Saltwater Species Using Pompano Strike Nets; Concerning Changes to Proof of Income Requirement for 1995. A problem had arisen due to the income tax returns required for 1995. Secretary Herring told Chairman Gisclair that Ms. Connie Koury had interpreted the law differently and faxed a copy of her letter to Chairman Gisclair. Secretary Herring stated Mr. George Carmouche and Ms. Koury wrote a different interpretation than what the Department already had. Chairman Gisclair then asked Mr. Don Puckett for an explanation of what exactly the problem was and what his interpretation was.

Mr. Don Puckett stated the issue was whether a fishermen that needed 1995 to qualify for permits would have to wait until he had filed his 1995 return. This problem has been looked at by staff for the past several months and they concluded that the Act required a 1040 return and if a fishermen needed 1995's return to qualify, he would not be able to obtain the permits until sometime in 1996. The fishermen wanting to apply for a mullet permit realized this problem when they needed 1995's proof of income to qualify and brought this matter to the Governor's Office. The Governor's Executive Counsel took a contrary interpretation and presented the Commission with the paperwork to follow through with the Governor's Office interpretation.

Then Chairman Gisclair asked Ms. Connie Koury to present her interpretation. Ms. Koury stated the Governor's Office was drafted

into this role which was similar to the role played during the passage of this Act. Numerous fishermen placed calls to the Governor and his office stating they could not get a license due to some interpretations by the Department. Ms. Koury stated the Act was not a well drafted piece of legislation. A key issue was the omission of the word "not" as it related to a Social Security number as well as other numerous instances. Mr. Puckett did not agree with Ms. Koury's interpretation but acknowledged it as being a valid legal interpretation. Ms. Koury explained the problem and then stated the law intended that no one new be allowed to start commercial fishing in 1995. Then she asked for the Commission to approve an Alternative Method so fishermen could prove their 1995 income and if that proof was not correct, then action could be taken against the fisherman. Finally, Ms. Koury explained how all the amendments were added to the bill during the final days of the session.

Mr. Fred Prejean stated the Alternative Method was intended to allow commercial fishermen to provide proof that they did earn 50 percent or more of their income from fishing for the first 9 months of 1995. There are no 1995 1040 forms and Schedule C's available yet and there are other means for providing proof of income for 1995, stated Mr. Prejean. A fisherman can provide a Certified Public Accountant with the source and amount of his income. The CPA would then provide the Department with an unqualified opinion saying the information is correct. For a CPA to provide this opinion, he must run tests on the information provided to satisfy himself that the information is correct. The Alternative Method explains to the applicant what he must do and provides an affidavit for the CPA to sign. Then the permit applicant would return the affidavit from the CPA to the Department and then a permit would be issued. There were many conflicting issues that came into play when the Alternative Method was drafted. Some of these issues were explained by Mr. Prejean. Commissioner Babin asked how many fishermen have had problems, has it been the majority of fishermen? Mr. Prejean stated 600 mullet permits and 3 partnership permits have been issued to date, as compared to 1,100 permits issued last year.

Chairman Gisclair read the item on the agenda and asked Mr. Puckett if he saw a problem with the Alternative Method? Mr. Puckett stated, since he worked with Mr. Prejean, what would be adopted by the Commission would be the best solution to providing an interim proof of income. Commissioner Cormier asked if the Commission adopted this Alternative Method, would this issue have to be revisited due to further interpretations? Commissioner Carver asked again for the intent of the bill, was it to keep new commercial fishermen from obtaining a license? Ms. Koury stated the law eliminated the historical commercial fishermen that were intended to be covered but it intended to eliminate the new fishermen trying to get into the industry. Commissioner Carver then asked if the original motions passed by the Commission

eliminated certain fishermen that were active from obtaining a license but the Alternative Method would allow some of these fishermen to obtain a license? Then he asked if there were any numbers on how many fishermen this would affect? Chairman Gisclair then opened the discussion for public comments.

Mrs. Marilyn Rotolo, Delta Commercial Fisheries Association, explained two scenarios where historical commercial fishermen could not qualify for a mullet permit. She asked the Commission to consider these two scenarios due to the fact they are historical commercial fishermen.

Mr. Armand Richard, Cameron Parish, stated he was a part-time commercial fishermen trying to supplement his income and would not qualify with the 50 percent proof of income. He felt, as a fisherman, he was being discriminated against. Then he asked for a redesignation the line between the saltwater and freshwater areas to Catfish Lock Structure. Chairman Gisclair stated the 50 percent proof of income was a legislative act and could only be changed by them. The same holds true for the saltwater-freshwater line. It is a state statute.

Mr. Jeff Angers began by complimenting Ms. Koury and the staff from the Department. He then stated he disagreed with some of the statements made by Ms. Koury. The original intent of the law was to get the nets out of the water, but through compromises the law provided a means to regulate the nets. Mr. Angers felt the Alternative Method would bend the rules to allow more people into the fishery and would be different than the language in the law said. The Commission was not required to follow the orders from the Governor's Office, reminded Mr. Angers. He then officially stated he was opposed to the Alternative Method. Commissioner Babin asked if it was Representative Triche's intention to eliminate fishermen by using years 1995, 1994 and 1993 as opposed to 1994, 1993 and 1992? Chairman Gisclair stated if you qualified in 1994 and then came to fish in 1995 but had to take a job in the private sector waiting for the income tax for 1995, then a fisherman would not qualify and would be out of the fishery. Then he explained what he felt the intent of the law was to be.

Mr. George Carmouche reiterated what Mr. Prejean stated, that less than 60 percent of those that fished last year have qualified this year. The intent of the law, based on amendments added to the law by Senator Chabert, was not to prohibit fishermen from fishing during 1995. Mr. Carmouche also stated, even with the adoption of this Alternative Method, some families would still not qualify.

Ms. Connie Koury stated the Governor did not issue an Executive Order on any of these matters. At the request of Secretary Herring, Ms. Koury put into writing their interpretation on the proof of income for 1995. Then she read from Act 1316 on what positive proof was needed and how the Commission established

procedures. The Alternative Method was providing a substitution to a very limited way of proving the income.

Mr. Pete Gericca, Lake Pontchartrain Fisherman's Association, did not agree with the statements on how historical fishermen were not intended to be put out of business. He asked the Commission to vote in favor of this Alternative Method. Mr. Gericca felt the bill was worse now than when first passed and eventually it would put the commercial fishermen out of business.

Mr. George Barasich, United Commercial Fisherman's Association and Seafood Management Council, agreed with Mr. Gericca that the intent of the bill was to take away rights of all commercial fishermen. Mr. Barasich then expressed hope the recreational and commercial fishermen could work together again.

Mr. Fred Prejean corrected his earlier statement and noted that there were six partnership permits issued instead of three. Also, those persons that already have qualified for the permits must bring the certified copies from the IRS next year to obtain their permits. Chairman Gisclair asked if the Alternative Method affected the Assistance Program, the Net Buy-Back Program and the other proposed rules?

Mr. C. J. Kiefe asked, if a corporation with 20 stock holders requested a permit, would the permit be issued to the corporation and could the 20 stock holders fish on this one permit? Mr. Puckett stated the permits are only issued in a person's name and the corporation issues would be handled on a case by case basis.

Mr. George Barasich asked could fish caught as a by-catch in a shrimp trawl be sold, and were there any special permits needed to do this? Chairman Gisclair stated these comments were specific to the Alternative Method.

Mr. Armand Richard stated he bought his licenses last November and since his Saltwater Gill Net license expired in August, would he be entitled to a refund?

Commissioner Carver stated it seemed the Commission was always the bad boys and that they did not pass the bill or legislate for the bill. The only thing the Commission was to do was implement a bill the legislature demanded them to do.

Commissioner Babin stated the Commissioners did not want to be the bad guys and the legislature voted to pass the bill. The meeting today was to take public comments and address the issue of proof of income.

Commissioner Cormier stated he wanted to offer the Alternative Method as introduced for items a through f on the agenda along with the Affidavit. Chairman Gisclair asked if all the items could be



taken at one time or if each individual item needed to be voted upon? Mr. Puckett stated if the Commission wanted to adopt the Alternative Method and incorporate this into the current Declarations of Emergency and Notices of Intent, new Declarations of Emergency and Notices of Intent would need to be adopted. This adoption could occur in one motion and would supersede the previous Declarations of Emergency and Notices of Intent. Chairman Gisclair asked, just to be certain, that Commissioner Cormier make a motion to cover all Declarations of Emergency and Notices of Intent for items a through f? Commissioner Cormier again stated his motion to adopt the Alternative Method which includes an Affidavit, to include items a through f on the agenda, and the Declarations of Emergency and Notices of Intent to supersede those previously published. Commissioner Vujnovich seconded the motion and it passed with no opposition.

(The full text of the Declarations of Emergency and Notices of Intent are made a part of the record.)

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Commercial Fisherman's Assistance  
Program (LAC 76:XVII.101)

The Wildlife and Fisheries Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:13.1.B(1) adopts the rule set forth below. Act 1316 (The Louisiana Marine Resources Conservation Act of 1995) mandates the Department of Wildlife and Fisheries to provide economic assistance to those commercial fishermen who are displaced or severely financially impacted by the loss of the use of commercial fishing nets due to its enactment. Initial promulgation of this rule as a Declaration of Emergency is necessary because the Act establishes a deadline for implementation which predates the earliest date for promulgation of a final rule through non-emergency rulemaking procedures.

This Declaration of Emergency shall be effective on October 25, 1995, and shall supersede the Declaration of Emergency published in the September 1995 Louisiana Register. The Declaration of Emergency remains in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

The Wildlife and Fisheries Commission herein establishes procedures for determining proof of income of applicants for economic assistance under R.S. 56:13.1.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part XVII. Commercial Fisherman's Assistance Program**

##### **Chapter 1. Proof of Income**

##### **§101. Criteria for Establishing Proof of Income and Procedures**

A. An applicant for economic assistance shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1995, 1994, and 1993.

B. 1. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:13.1.B(1).

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22: .

**Perry Gisclair  
Chairman**

## **NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Commercial Fisherman's Assistance  
Program (LAC 76:XVII.101)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to establish the procedures for determining proof of income of applicants for economic assistance under the Commercial Fisherman's Assistance Program established by the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The Wildlife and Fisheries Commission herein establishes procedures for determining proof of income of applicants for economic assistance under R.S. 56:13.1.

## **Title 76**

### **WILDLIFE AND FISHERIES**

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form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.B(1).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22: .

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments until 4:30 p.m., January 3, 1996, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Perry Gisclair  
Chairman

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Office of Management and Finance

Net-Buy Back Program

The Department of Wildlife and Fisheries is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:13.1.D. adopts the rule set forth below. This declaration of emergency is necessary because Act 1316 of the 1995 Legislature mandates the Department of Wildlife and Fisheries to adopt this rule. This emergency rule shall be effective on October 25, 1995, and shall supersede the Declaration of Emergency published in the September 1995 Louisiana Register.

It shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part XVII. Commercial Fisherman's Assistance Program**

##### **Chapter 3. Net Buy-Back Program**

##### **§301. Criteria for Qualification; Procedures**

A. Until January 1, 1996, the Department of Wildlife and Fisheries shall purchase from qualified persons those commercial fishing nets that have been rendered illegal or useless due to the enactment of the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

B. In order to qualify, persons must have applied for assistance under the Commercial Fisherman's Assistance Program on or before October 1, 1995, and must have met all of the following criteria:

1. must have purchased a saltwater gill net license in at least two of the years 1995, 1994, and 1993;

2. during two of those years shall have derived more than fifty percent of his earned income from the legal capture and sale of seafood species;

3. shall not have been convicted of any fishery-related offense that constitutes a class three or greater violation; and

4. must have been a bona fide resident of Louisiana on June 30, 1995.

C. 1. Proof of income shall be provided by the applicant in the form of a copy of his federal tax return, including Schedule

C of federal form 1040, which has been certified by the Internal Revenue Service. The Department of Wildlife and Fisheries can provide the applicant with the appropriate Internal Revenue Service form to request this. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.



f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

D. Beginning September 1, 1995, qualified persons desiring to have their nets purchased by the Department of Wildlife and Fisheries may obtain an application form provided by the department from any departmental district office; the completed form shall include all information necessary to assist in the determination of the eligibility status of the applicant. All requested information regarding size, type and number of nets must be provided. The completed form, along with proof of income as described herein, a copy of the applicants Louisiana driver's license, and copies of appropriate saltwater gill net licenses, shall be submitted no later than October 1, 1995, to the Commercial License Section of Wildlife and Fisheries located at 2000 Quail Drive, Baton Rouge, LA or by mail to P. O. Box 98000, Baton Rouge, LA 70898. Applicants will be notified by mail as to the disposition of their application.

E. Only those nets that were legal for use in the saltwater areas of this state on June 1, 1995, and only those nets in usable condition, will be eligible for purchase under the provisions of Act 1316 and this Declaration of Emergency.

F. Applicants must have had a gear license issued in their name for at least one of the years 1995, 1994, or 1993, for the specific type of net(s) being presented for purchase. This is in addition to the requirements for having a saltwater gill net license for two of the three years.

G. Monetary reimbursement for nets to be purchased under this declaration of emergency shall be determined based on the availability of funds collected from the issuance of the Louisiana Marine Resources Conservation Act Stamp. Funds collected through June 30, 1996, will be distributed as follows: 30 percent to the Enforcement Division of the Department in accordance with the Act, and the remaining 70 percent to be made available for the net buy-back portion of the Commercial Fisherman's Assistance Program. Subsequent to June 1996, 70 percent of the revenue collected from the LMRC Stamp will be used for the remainder of the Commercial Fisherman's Assistance Program as defined in Act 1316, R.S. 56:13.1.C.

H. The disbursement of available funds for nets shall be calculated on a pro rata basis to accommodate the number of qualified applicants at a rate not to exceed 50 percent of the average cost of each qualifying net. The following is a schedule of the maximum amount to be paid for each type and size of net based upon 50 percent of the average standard 1995 catalog prices not including sales tax, shipping charges, or options. Actual prices to be paid will be limited by the number of qualifying nets and by the amount of revenue collected.

<u>Mesh Depth</u>	<u>Gill Nets</u>	<u>Seines</u>
	<u>Price per foot</u>	<u>Price per foot</u>
4' - 6'	\$ .25	\$ .76
over 6' - 8'	\$ .30	\$ .80
over 8' - 10'	\$ .38	\$ .87
over 10' - 12'	\$ .42	\$ .92
over 12' - 14'	\$ .44	\$ .96
over 14'	\$ .53	\$ 1.02

	<u>Trammel Nets</u>
	<u>Price per foot</u>
4' - 6'	\$ .38
over 6' - 8'	\$ .40
over 8' - 10'	\$ .43
over 10'	\$ .45

	<u>Fish Trawls</u>
	<u>Price per foot</u>
Complete	\$ 11.22 per foot of trawl width

Trawl only

\$ 6.84 per foot of trawl width

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:13.1.D.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 22: .

Joe L. Herring  
Secretary

#### NOTICE OF INTENT

Department of Wildlife and Fisheries  
Office of Management and Finance

Net Buy-Back Program  
(LAC 76:XVII.301)

The Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule to establish a schedule showing the amount to be paid for each type and size of net to be purchased under the Net Buy-Back Program portion of the Commercial Fisherman's Economic Assistance Program and to establish procedures for application. This is in accordance with the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part XVII. Commercial Fisherman's Assistance Program

#### Chapter 3. Net Buy-Back Program

#### §301. Criteria for Qualification; Procedures

A. Until January 1, 1996, the Department of Wildlife and Fisheries shall purchase from qualified persons those commercial fishing nets that have been rendered illegal or useless due to the enactment of the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

B. In order to qualify, persons must have applied for assistance under the Commercial Fisherman's Assistance Program on or before October 1, 1995, and must have met all of the following criteria:

1. must have purchased a saltwater gill net license in at least two of the years 1995, 1994, and 1993;

2. during two of those years shall have derived more than fifty percent of his earned income from the legal capture and sale of seafood species;

3. shall not have been convicted of any fishery-related offense that constitutes a class three or greater violation; and

4. must have been a bona fide resident of Louisiana on June 30, 1995.

C. 1. Proof of income shall be provided by the applicant in the form of a copy of his federal tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. The Department of Wildlife and Fisheries can provide the applicant with the appropriate Internal Revenue Service form to request this. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by

I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

D. Beginning September 1, 1995, qualified persons desiring to have their nets purchased by the Department of Wildlife and Fisheries may obtain an application form provided by the department from any departmental district office; the completed form shall include all information necessary to assist in the determination of the eligibility status of the applicant. All requested information regarding size, type and number of nets must be provided. The completed form, along with proof of income as described herein, a

copy of the applicants Louisiana driver's license, and copies of appropriate saltwater gill net licenses, shall be submitted no later than October 1, 1995, to the Commercial License Section of Wildlife and Fisheries located at 2000 Quail Drive, Baton Rouge, LA or by mail to P. O. Box 98000, Baton Rouge, LA 70898. Applicants will be notified by mail as to the disposition of their application.

E. Only those nets that were legal for use in the saltwater areas of this state on June 1, 1995, and only those nets in usable condition, will be eligible for purchase under the provisions of Act 1316.

F. Applicants must have had a gear license issued in their name for at least one of the years 1995, 1994, or 1993, for the specific type of net(s) being presented for purchase. This is in addition to the requirements for having a saltwater gill net license for two of the three years.

G. Monetary reimbursement for nets to be purchased under this Rule shall be determined based on the availability of funds collected from the issuance of the Louisiana Marine Resources Conservation Act Stamp. Funds collected through June 30, 1996, will be distributed as follows: 30 percent to the Enforcement Division of the Department in accordance with the Act, and the remaining 70 percent to be made available for the net buy-back portion of the Commercial Fisherman's Assistance Program. Subsequent to June 1996, 70 percent of the revenue collected from the LMRC Stamp will be used for the remainder of the Commercial Fisherman's Assistance Program as defined in Act 1316, R.S. 56:13.1.C.

H. The disbursement of available funds for nets shall be calculated on a pro rata basis to accommodate the number of qualified applicants at a rate not to exceed 50 percent of the average cost of each qualifying net. The following is a schedule of the maximum amount to be paid for each type and size of net based upon 50 percent of the average standard 1995 catalog prices not including sales tax, shipping charges, or options. Actual prices to be paid will be limited by the number of qualifying nets and by the amount of revenue collected.

<u>Mesh Depth</u>	<u>Gill Nets</u>	<u>Seines</u>
	<u>Price per foot</u>	<u>Price per foot</u>
4' - 6'	\$ .25	\$ .76
over 6' - 8'	\$ .30	\$ .80
over 8' - 10'	\$ .38	\$ .87
over 10' - 12'	\$ .42	\$ .92
over 12' - 14'	\$ .44	\$ .96
over 14'	\$ .53	\$ 1.02

Trammel Nets

	<u>Price per foot</u>
4' - 6'	\$ .38
over 6' - 8'	\$ .40
over 8' - 10'	\$ .43
over 10'	\$ .45

	<u>Fish Trawls</u>
Complete	\$ 11.22 per foot of trawl width
Trawl only	\$ 6.84 per foot of trawl width

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 22: .

Interested persons may submit written comments until 4:30 p.m., January 3, 1996, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Joe L. Herring  
Secretary

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Saltwater Rod and Reel License  
(LAC 76:VII.405)

The Wildlife and Fisheries Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:305.B.(14)(b) adopts the rule set forth below. Initial promulgation of this rule as a Declaration of Emergency is necessary because Act 1316 (The Louisiana Marine Resources Conservation Act of 1995) mandates the Department of Wildlife and Fisheries to implement the Act effective August 15, 1995.

This Declaration of Emergency is effective October 25, 1995, and shall supersede the Declaration of Emergency published in the September 1995 Louisiana Register. The Declaration of Emergency also remains in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

The Wildlife and Fisheries Commission herein establishes procedures relative to the proof of income of applicants for a saltwater commercial rod and reel gear license.

Title 76

## **WILDLIFE AND FISHERIES**

### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 4. License and License Fees**

##### **§405. Saltwater Commercial Rod and Reel License; Proof of Income**

A. Each applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the three years, 1995, 1994, and 1993.

B. 1. Proof of income shall be provided by the applicant in the form of a copy of his federal income tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service and a copy of his state tax return which has been certified by the Louisiana Department of Revenue and Taxation. In the event that the certified copies of the tax returns, including Schedule C, do not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.



c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:13.1.D.  
**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22: .

**Perry Gisclair**  
Chairman,

## **NOTICE OF INTENT**

**Department of Wildlife and Fisheries**  
**Wildlife and Fisheries Commission**

**Saltwater Rod and Reel License**  
**(LAC 76:VII.405)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to establish the procedures relative to the proof of income criteria for applicants for a saltwater commercial rod and reel license in accordance with the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The Wildlife and Fisheries Commission herein establishes procedures relative to the proof of income of applicants for a saltwater commercial rod and reel gear license.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

##### **Chapter 4. License and License Fees**

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A. Each applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the three years, 1995, 1994, and 1993.

B. 1. Proof of income shall be provided by the applicant in the form of a copy of his federal income tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service and a copy of his state tax return which has been certified by the Louisiana Department of Revenue and Taxation. In the event that the certified copies of the tax returns, including Schedule C, do not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records

which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22: .

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments until 4:30 p.m., January 3, 1996, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Perry Gisclair  
Chairman

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Spotted Seatrout Harvest (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(10), 56:6(25)(a), 56:325.3, 56:326.3, and 56:325.3 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the Commission establish rules for the implementation of the Louisiana Marine Resources Conservation act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule. This emergency rule supersedes the Declaration of Emergency published in the September 1995 Louisiana Register.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

##### **Chapter 3. Saltwater Sport and Commercial Fishing**

##### **§341. Spotted Seatrout Management Measures**

###### **A. Commercial Season; Quota; Permits**

1. The season for the commercial taking of spotted seatrout shall begin at sunrise on the third Monday in November of each year, and close at sunset on May 1 the following year or when the quota has been reached or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first.

2. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial quota for spotted seatrout shall be one million pounds for each fishing season.

###### **4. Permits**

a. The commercial taking of spotted seatrout is prohibited except by special non-transferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements:

i. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

ii. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

iii. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

(a) Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

(b) The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

(c) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(d) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards

required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(e) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

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(g) The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(h) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(i) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

iv. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

v. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

5. Each Spotted Seatrout Permit holder shall, on or before the 10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of spotted seatrout taken commercially during the preceding month, and the commercial dealers to whom these were sold, if sold. Monthly reports shall be filed, even if catch or effort is zero.

B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons

1. There shall be two seasons for the commercial harvest of spotted seatrout with a mullet strike net: the first season shall open on Monday, November 20, 1995, and end no later than March 1, 1996; the second season shall open on Monday, November 18, 1996, and end no later than March 1, 1997. Such seasons shall be closed prior to the dates listed in this paragraph if:

a. one million pounds of spotted seatrout have been taken commercially during a fishing season; or

b. on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first. The closure shall not take effect for at least 72 hours after notice to the public.

2. During these two seasons the commercial harvest of spotted seatrout with mullet strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial taking of spotted seatrout by using a mullet strike net in excess of 1200 feet in length is prohibited. Furthermore, use of more than one mullet strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take spotted seatrout.



The department shall not issue any tag to a person who does not have a social security number.

C. Commercial Taking of Spotted Seatrout Using Other Commercial Gear

1. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

2. During the 1995-1996 season for harvest of spotted seatrout with a mullet strike net, all other legal methods of harvest may also be used until March 1, 1996. After that date, only commercial rod and reel may be used for the commercial harvest of spotted seatrout, provided that the commercial harvest of spotted seatrout does not exceed the commercial quota.

3. During the 1996-1997 season for commercial harvest of spotted seatrout with a mullet strike net, only a mullet strike net or a commercial rod and reel may be used for the commercial harvest of spotted seatrout provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

4. Following the closure of the 1996-1997 season for the harvest of spotted seatrout with a mullet strike net, only a commercial rod and reel shall be used for the commercial harvest of spotted seatrout, provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

D. General Provisions. Effective with the closure of the commercial season for spotted seatrout, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of spotted seatrout on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of spotted seatrout legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); 56:325.3; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22: .

Perry Gisclair  
Chairman

NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Spotted Seatrout Harvest  
(LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule (LAC 76:VII.341) to amend the regulations governing the commercial harvest of spotted seatrout. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); 56:325.3; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. The season for the commercial taking of spotted seatrout shall begin at sunrise on the third Monday in November of each year, and close at sunset on May 1 the following year or when the quota has been reached or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first.

2. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial quota for spotted seatrout shall be one million pounds for each fishing season.

4. Permits

a. The commercial taking of spotted seatrout is prohibited except by special non-transferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements:

i. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

ii. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

iii. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

(a) Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

(b) The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

(c) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(d) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards

required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(e) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(f) The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(g) The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(h) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(i) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

iv. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

v. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

5. Each Spotted Seatrout Permit holder shall, on or before the 10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of spotted seatrout taken commercially during the preceding month, and the commercial dealers to whom these were sold, if sold. Monthly reports shall be filed, even if catch or effort is zero.

B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons

1. There shall be two seasons for the commercial harvest of spotted seatrout with a mullet strike net: the first season shall open on Monday, November 20, 1995, and end no later than March 1, 1996; the second season shall open on Monday, November 18, 1996, and end no later than March 1, 1997. Such seasons shall be closed prior to the dates listed in this paragraph if:

a. one million pounds of spotted seatrout have been taken commercially during a fishing season; or

b. on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first. The closure shall not take effect for at least 72 hours after notice to the public.

2. During these two seasons the commercial harvest of spotted seatrout with mullet strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial taking of spotted seatrout by using a mullet strike net in excess of 1200 feet in length is prohibited. Furthermore, use of more than one mullet strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take spotted seatrout.

The department shall not issue any tag to a person who does not have a social security number.

C. Commercial Taking of Spotted Seatrout Using Other Commercial Gear

1. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

2. During the 1995-1996 season for harvest of spotted seatrout with a mullet strike net, all other legal methods of harvest may also be used until March 1, 1996. After that date, only commercial rod and reel may be used for the commercial harvest of spotted seatrout, provided that the commercial harvest of spotted seatrout does not exceed the commercial quota.

3. During the 1996-1997 season for commercial harvest of spotted seatrout with a mullet strike net, only a mullet strike net or a commercial rod and reel may be used for the commercial harvest of spotted seatrout provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

4. Following the closure of the 1996-1997 season for the harvest of spotted seatrout with a mullet strike net, only a commercial rod and reel shall be used for the commercial harvest of spotted seatrout, provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

D. General Provisions. Effective with the closure of the commercial season for spotted seatrout, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of spotted seatrout on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of spotted seatrout legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); 56:325.3; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22: .

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of

intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

Perry Gisclair  
Chairman

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Mullet Harvest (LAC 76:VII.343)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(25)(a), 56:326.3, and 56:333 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the Commission establish rules for the implementation of the Louisiana Marine Resources Conservation Act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule. This emergency rule supersedes the Declaration of Emergency published in the September 1995 Louisiana Register.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishing

#### §343. Rules for Harvest of Mullet

##### A. Seasons

1. The season for the commercial taking of mullet shall begin at sunrise of the third Monday in October of each year and close at sunset of the third Monday in January of the following year. Mullet may not be taken commercially at any time outside of this season.

2. Commercial harvest of mullet shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of mullet during the period after sunset and before sunrise.

#### B. Commercial Taking

1. Mullet may only be taken commercially with a mullet strike net, which may not be constructed of monofilament. The commercial taking of mullet by using a mullet strike net in excess of 1200 feet or by using more than one mullet strike net from any vessel at any time is prohibited.

2. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take mullet. The department shall not issue any tag to a person who does not have a social security number.

C. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of mullet by properly licensed and permitted fishermen.

D. Recreational Limits. The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person per day.

#### E. Permits

1. The commercial taking of mullet is prohibited except by special permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

2. No person shall be issued a license or permit for the commercial taking of mullet unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal



capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

c. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

i. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

ii. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

iii. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

iv. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

v. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

vi. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

vii. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

viii. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

ix. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

d. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

3. No person shall receive more than one permit or license to commercially take mullet.

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

5. Each Mullet Permit holder shall, on or before the 10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of mullet taken commercially during the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

F. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet

on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

G. In addition, all provisions of R.S. 56:333(C) are hereby adopted and incorporated into this rule.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:6(25)(a), 56:325.1, 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended LR 21:37 (January 1995), LR 22: .

Perry Gisclair  
Chairman

#### NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Harvest of Mullet  
(LAC 76:VII.343)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule (LAC 76:VII.343) to amend the regulations governing the commercial harvest of mullet. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included R.S. 56:6(25)(a); 56:326.3; 56:333; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishing

#### §343. Rules for Harvest of Mullet

##### A. Seasons

1. The season for the commercial taking of mullet shall begin at sunrise of the third Monday in October of each year and close at sunset of the third Monday in January of the following

year. Mullet may not be taken commercially at any time outside of this season.

2. Commercial harvest of mullet shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of mullet during the period after sunset and before sunrise.

#### B. Commercial Taking

1. Mullet may only be taken commercially with a mullet strike net, which may not be constructed of monofilament. The commercial taking of mullet by using a mullet strike net in excess of 1200 feet or by using more than one mullet strike net from any vessel at any time is prohibited.

2. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take mullet. The department shall not issue any tag to a person who does not have a social security number.

C. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of mullet by properly licensed and permitted fishermen.

D. Recreational Limits. The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person per day.

#### E. Permits

1. The commercial taking of mullet is prohibited except by special permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

2. No person shall be issued a license or permit for the commercial taking of mullet unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue

Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

c. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

i. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

ii. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

iii. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

iv. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

v. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

vi. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement

that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

vii. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

viii. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

ix. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

d. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

3. No person shall receive more than one permit or license to commercially take mullet.

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

5. Each Mullet Permit holder shall, on or before the 10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of mullet taken commercially during the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

F. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

G. In addition, all provisions of R.S. 56:333(C) are hereby adopted and incorporated into this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:325.1, 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended LR 21:37 (January 1995), LR 22: .

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

Perry Gisclair  
Chairman

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Black Drum, Flounder, and Sheepshead Harvest  
(LAC 76:VII.349)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(10), 56:6(25)(a), 56:326.1, 56:326.3, and 56:325.4 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the Commission establish rules for the implementation of the

Louisiana Marine Resources Conservation Act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule. This emergency rule supersedes the Declaration of Emergency published in the September 1995 Louisiana Register.

The Wildlife and Fisheries Commission herein establishes rule and regulations governing the harvest of black drum, flounder, sheepshead and other saltwater finfish (other than red drum, spotted seatrout, and mullet) with pompano strike nets.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

##### **Chapter 3. Saltwater Sport and Commercial Fishing**

##### **§349. Rules for Harvest of Black Drum, Sheepshead, Flounder and Other Saltwater Species using Pompano Strike Nets**

###### **A. Drum/Sheepshead Strike Net Permit**

1. The commercial taking of black drum, sheepshead and flounder with pompano strike nets is prohibited except by special permit issued by the Department of Wildlife and Fisheries, hereby designated as a Drum/Sheepshead Strike Net Permit. This permit is required in addition to the Pompano Strike Net License required by law.

2. No person shall be issued a Drum/Sheepshead Strike Net Permit unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared



and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

c. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

i. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

ii. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

iii. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

iv. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

v. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

vi. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

vii. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all

financial documents relied upon in support of his unqualified opinion.

viii. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

ix. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

d. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

e. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

3. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any Drum/Sheepshead Strike Net Permit and shall be forever barred from receiving any such permit in the future.

#### B. Commercial Taking of Saltwater Finfish using Pompano Strike Nets

1. There shall be two seasons for the commercial harvest of all species of saltwater finfish (other than mullet, spotted seatrout and red drum) with a pompano strike net: the first season shall open on Monday October 16, 1995, and end with the closure of the mullet strike net season, but no later than March 1, 1996; the second season shall open on Monday October 21, 1996, and end with the closure of the mullet strike net season, but no later than March 1, 1997. A season for the taking of these species shall be closed prior to the dates listed in this paragraph

if the commercial quota for that species has been taken, or on the date projected by the staff of the Department of Wildlife and Fisheries that a quota will be reached, whichever occurs first. The closure shall not take effect for at least 72 hours after notice to public.

2. During these two seasons the commercial harvest of these species with pompano strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of these species with pompano strike nets during the period after sunset and before sunrise.

3. The commercial taking of these species by using a pompano strike net in excess of 1200 in length is prohibited. Furthermore, use of more than one pompano strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the Drum/Sheepshead Strike Net Permit number, if applicable. The department shall not issue any tag to a person who does not have a social security number.

5. Each Drum/Sheepshead Strike Net Permit holder shall on or before the tenth of each month file a return to the department on forms provided or approved for the purpose, the pounds of black drum from 16 to 27 inches, the number of black drum over 27 inches, the pounds of sheepshead and the pounds of flounder taken commercially during the preceding month, the gears used for harvest, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

C. General Provisions. Effective with the closure of a commercial season for black drum, sheepshead, or flounder, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of that species on the waters of the state with pompano strike nets in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of fish legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

AUTHORITY NOTE: Promulgated in accordance with 56:6(10), 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990); amended LR 22: .

Perry Gisclair  
Chairman

NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Black Drum, Sheepshead, and Flounder Harvest  
(LAC 76:VII.349)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule (LAC 76:VII.349) to establish regulations governing the commercial harvest of black drum, flounder, sheepshead and other saltwater finfish (other than red drum, spotted seatrout, and mullet) with pompano strike nets. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in R.S. 56:6(10); 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

The Wildlife and Fisheries Commission herein establishes rule and regulations governing the harvest of black drum, flounder, sheepshead and other saltwater finfish (other than red drum, spotted seatrout, and mullet) with pompano strike nets.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§349. Rules for Harvest of Black Drum, Sheepshead, Flounder and Other Saltwater Species using Pompano Strike Nets

A. Drum/Sheepshead Strike Net Permit

1. The commercial taking of black drum, sheepshead and flounder with pompano strike nets is prohibited except by special permit issued by the Department of Wildlife and Fisheries, hereby designated as a Drum/Sheepshead Strike Net Permit. This permit is required in addition to the Pompano Strike Net License required by law.

2. No person shall be issued a Drum/Sheepshead Strike Net Permit unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

c. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

i. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

ii. The Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

iii. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

iv. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

v. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

vi. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

vii. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

viii. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

ix. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

d. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

e. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

3. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any Drum/Sheepshead

Strike Net Permit and shall be forever barred from receiving any such permit in the future.

B. Commercial Taking of Saltwater Finfish using Pompano Strike Nets

1. There shall be two seasons for the commercial harvest of all species of saltwater finfish (other than mullet, spotted seatrout and red drum) with a pompano strike net: the first season shall open on Monday October 16, 1995, and end with the closure of the mullet strike net season, but no later than March 1, 1996; the second season shall open on Monday October 21, 1996, and end with the closure of the mullet strike net season, but no later than March 1, 1997. A season for the taking of these species shall be closed prior to the dates listed in this paragraph if the commercial quota for that species has been taken, or on the date projected by the staff of the Department of Wildlife and Fisheries that a quota will be reached, whichever occurs first. The closure shall not take effect for at least 72 hours after notice to public.

2. During these two seasons the commercial harvest of these species with pompano strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of these species with pompano strike nets during the period after sunset and before sunrise.

3. The commercial taking of these species by using a pompano strike net in excess of 1200 feet in length is prohibited. Furthermore, use of more than one pompano strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the Drum/Sheepshead Strike Net Permit number, if applicable. The department shall not issue any tag to a person who does not have a social security number.

5. Each Drum/Sheepshead Strike Net Permit holder shall on or before the tenth of each month file a return to the department on forms provided or approved for the purpose, the pounds of black drum from 16 to 27 inches, the number of black drum over 27 inches, the pounds of sheepshead and the pounds of flounder taken commercially during the preceding month, the gears used for harvest, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

C. General Provisions. Effective with the closure of a commercial season for black drum, sheepshead, or flounder, there shall be a prohibition of the commercial take from Louisiana

waters, and the possession of that species on the waters of the state with pompano strike nets in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of fish legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

AUTHORITY NOTE: Promulgated in accordance with 56:6(10), 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990); amended LR 22: .

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

Perry Gisclair  
Chairman

Chairman Gisclair then asked for Public Comments.

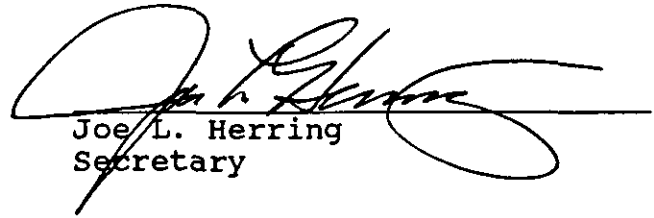
Mrs. Marilyn Rotolo, Delta Commercial Fisheries Association, asked if the Commissioners had read the latest report on the harvest of mullet? Then she stated the catch on mullet fishing was dramatically down and asked for night fishing of mullet to be placed on the agenda. Chairman Gisclair asked Mr. Puckett if the bill specifically prohibited night fishing? Mr. Puckett stated this was legislative statute and could not be changed by the Commission.

Mr. George Barasich asked again if his by-catch from a shrimp trawl could be sold? Mr. Puckett stated the legislation did not affect by-catch out of the shrimp trawls. Then Mr. Barasich asked Enforcement personnel if they would keep the same train of thought, that it would be easier for enforcement not to allow trawling at night? Chairman Gisclair stated this was not an issue at this time. Going on, Mr. Barasich asked Lt. Col. Clark how many hours were spent checking the commercial fishermen as compared to the recreational fishermen? Finally he asked if Enforcement was going to publish and circulate the rules affecting Act 1316 so both the



agents and the commercial fishermen would be working from the same set of rules?

There being no further business, Chairman Gisclair Adjourned the meeting.



Joe L. Herring  
Secretary

JLH:sch

Draft  
Corrections made  
11/9/95

MINUTES OF THE MEETING

OF

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Wednesday, October 25, 1995

Chairman Perry Gisclair presiding.

Peter Vujnovich  
Joseph B. Cormier  
Daniel Babin  
Glynn Carver  
Jerald Hanchey

Commissioner Jeff Schneider was absent from the meeting.

Secretary Joe L. Herring was also present.

Chairman Gisclair stated the meeting was called for one particular item - **Consideration of Declarations of Emergency and Notices of Intent and/or Amendment of Notices of Intent and Final Rules Listed Below:** a) Commercial Fisherman's Assistance Program; b) Net Buy-Back Program; c) Saltwater Commercial Rod and Reel License; d) Spotted Seatrout Management Measures; e) Rules for Harvest of Mullet; and f) Rules for Harvest of Black Drum, Sheepshead and Flounder and Other Saltwater Species Using Pompano Strike Nets; Concerning Changes to Proof of Income Requirement for 1995. A problem had arisen due to the income tax returns required for 1995. Secretary Herring told Chairman Gisclair that Ms. Connie Koury interpreted the law differently and faxed a copy of her letter to Chairman Gisclair. Secretary Herring stated Mr. George Carmouche and Ms. Koury wrote a different interpretation from what the Department already had. Chairman Gisclair then asked Mr. Don Puckett for an explanation of what exactly the problem was and what his interpretation was.

Mr. Don Puckett stated the issue was whether a fishermen that needed 1995 to qualify for permits would have to wait until he had filed his 1995 return, ~~or could it be done immediately~~. This problem has been looked at by staff for the past several months and ~~concluded that the Act required a 1040 return and if a fishermen needed 1995's return to qualify, would not be able to obtain the permits until sometime in 1996.~~ The fishermen wanting to apply for a mullet permit realized this problem when they needed 1995's proof of income to qualify and brought this matter to the Governor's Office. The Governor's Executive Counsel took a contrary interpretation and presented the Commission with the paperwork to follow through with the Governor's Office interpretation.

Then Chairman Gisclair asked Ms. Connie Koury to present her interpretation. Ms. Koury stated the Governor's Office was drafted

into this role which was similar to the role played during the passage of this Act. Numerous fishermen placed calls to the Governor and his office stating they could not get a license due to some interpretations by the Department. Ms. Koury ~~admitted~~ <sup>stated</sup> the Act was not a well drafted piece of legislation. A key issue was the omission of the word "not" as it related to a Social Security number as well as other numerous instances. Mr. Puckett did not agree with Ms. Koury's interpretation but acknowledged it as being a valid legal interpretation. Ms. Koury explained the problem and ~~then stated the law intended for no one to be allowed to start commercial fishing in 1995. Then it was asked for the Commission to approve an Alternative Method so fishermen could prove their 1995 income and if that proof was not correct, then action could be taken against the fisherman. Finally, Ms. Koury explained how all the amendments were added to the bill during the final days of the session.~~ <sup>that</sup> <sup>New she</sup>

Mr. Fred Prejean stated the Alternative Method was intended to allow commercial fishermen to provide proof that they did earn 50 percent or more of their income from fishing for the first 9 months of 1995. There are no 1995 1040 forms and Schedule C's available yet and there are other means for providing proof of income for 1995, stated Mr. Prejean. A fisherman can provide a Certified Public Accountant with the source and amount of his income. The CPA would then provide the Department with an unqualified opinion saying the information is correct. For a CPA to provide this opinion, he must run tests on the information provided to satisfy himself that the information is correct. The Alternative Method explains to the applicant what he must do and provides an affidavit for the CPA to sign. Then the permit applicant would return the affidavit from the CPA to the Department and then a permit would be issued. There were many conflicting issues that came into play when the Alternative Method was drafted. Some of these issues were explained by Mr. Prejean. Commissioner Babin asked how many fishermen have had problems, has it been the majority of fishermen? Mr. Prejean stated 600 mullet permits and 3 partnership permits have been issued to date, as compared to 1,100 permits issued last year.

Chairman Gisclair read the item on the agenda and asked Mr. Puckett if he saw a problem with the Alternative Method? Mr. Puckett stated, since he worked with Mr. Prejean, what would be adopted by the Commission would be the best solution to providing an interim proof of income. Commissioner Cormier asked if the Commission adopted this Alternative Method, would this issue have to be revisited due to further interpretations? Commissioner Carver asked again for the intent of the bill, was it to keep new commercial fishermen from obtaining a license? Ms. Koury stated the law eliminated the historical commercial fishermen that were intended to be covered but ~~was intended the new fishermen trying to get into the industry.~~ <sup>it</sup> <sup>to eliminate</sup> Commissioner Carver then asked if the original motions passed by the Commission eliminated certain

fishermen that were active from obtaining a license but the Alternative Method would allow some of these fishermen to obtain a license? Then he asked if there were any numbers on how many fishermen this would affect? Chairman Gisclair then opened the discussion for public comments.

Mrs. Marilyn Rotolo, Delta Commercial Fisheries Association, explained two scenarios where historical commercial fishermen could not qualify for a mullet permit. She asked the Commission to consider these two scenarios due to the fact they are historical commercial fishermen.

Mr. Armand Richard, Cameron Parish, stated he was a part-time commercial fishermen trying to supplement his income and would not qualify with the 50 percent proof of income. He felt, as a fisherman, he was being discriminated against. Then he asked for a redesignation the line between the saltwater and freshwater areas to Catfish Lock Structure. Chairman Gisclair stated the 50 percent proof of income was a legislative act and could only be changed by them. The same holds true for the saltwater-freshwater line <sup>it is</sup> a state statute.

Mr. Jeff Angers began by complimenting Ms. Koury and the staff from the Department. He then stated he disagreed with some of the statements made by Ms. Koury. The original intent of the law was to get the nets out of the water, but through compromises <sup>the</sup> the law provided a means to regulate the nets. Mr. Angers felt the Alternative Method would bend the rules to allow more people into the fishery and would be different than the language in the law said. The Commission was not required to follow the orders from the Governor's Office, reminded Mr. Angers. He then officially stated he was opposed to the Alternative Method. Commissioner Babin asked if it was Representative Triche's intention to eliminate fishermen by using years 1995, 1994 and 1993 as opposed to 1994, 1993 and 1992? Chairman Gisclair stated if you qualified in 1994 and then came to fish in 1995 but had to take a job in <sup>the</sup> private sector waiting for the income tax for 1995, then a fisherman would not qualify and would be out of the fishery. Then he explained what he felt the intent of the law was to be.

Mr. George Carmouche reiterated what Mr. Prejean stated, that less than 60 percent of those that fished last year have qualified this year. The intent of the law, based on amendments added to the law by Senator Chabert, was not to prohibit fishermen from fishing during 1995. Mr. Carmouche also stated, even with the adoption of this Alternative Method, some families would still not qualify.

Ms. Connie Koury stated the Governor did not issue an Executive Order on any of these matters. At the request of Secretary Herring, Ms. Koury put into writing their interpretation on the proof of income for 1995. Then she read from Act 1316 on what positive proof was needed and how the Commission established

procedures. The Alternative Method was providing a substitution to a very limited way of proving the income.

Mr. Pete Gerica, Lake Pontchartrain Fisherman's Association, did not agree with the statements on how historical fishermen were not intended to be put out of business. He asked the Commission to vote in favor of this Alternative Method. Mr. Gerica felt the bill was worse now than when first passed and eventually it would put the commercial fishermen out of business.

Mr. George Barasich, United Commercial Fisherman's Association and Seafood Management Council, agreed with Mr. Gerica that the intent of the bill was to take away rights of all commercial fishermen. Mr. Barasich then expressed hope the recreational and commercial fishermen could work together again.

Mr. Fred Prejean corrected his earlier statement <sup>and noted</sup> that there were six partnership permits issued instead of three. Also, those persons that already have qualified for the permits ~~must~~ <sup>must</sup> bring the certified copies from the IRS next year to obtain their permits. Chairman Gisclair asked if the Alternative Method affected the Assistance Program, the Net Buy-Back Program and the other proposed rules?

Mr. C. J. Kiefe asked <sup>if</sup> a corporation with 20 stock holders <sup>the</sup> requested a permit, would the permit be issued to corporation and could the 20 stock holders fish on this one permit? Mr. Puckett stated the permits are only issued in a person's name and the corporation issues would be handled on a case by case basis.

Mr. George Barasich asked <sup>and could</sup> ~~if~~ fish caught as a by-catch in a shrimp trawl be sold, were there any special permits needed to do this? Chairman Gisclair stated these comments were specific to the Alternative Method.

Mr. Armand Richard stated he bought his licenses last November and since his Saltwater Gill Net license expired in August, would he be entitled to a refund?

Commissioner Carver stated it seemed the Commission was always the bad boys and that they did not pass the bill or legislate for the bill. The only thing the Commission was to do was implement a bill the legislature demanded them to do.

Commissioner Babin stated the Commissioners did not want to be the bad guys and the legislature voted to pass the bill. The meeting today was to take public comments and address the issue of proof of income.

Commissioner Cormier stated he wanted to offer the Alternative Method as introduced for items a through f on the agenda along with the Affidavit. Chairman Gisclair asked if all the items could be

taken at one time or if each individual item needed to be voted upon? Mr. Puckett stated if the Commission wanted to adopt the Alternative Method and incorporate this into the current Declarations of Emergency and Notices of Intent, new Declarations of Emergency and Notices of Intent would need to be adopted. This adoption could occur in one motion and would supersede the previous Declarations of Emergency and Notices of Intent. Chairman Gisclair asked, just to be certain, that Commissioner Cormier ~~could~~ make a motion to cover all Declarations of Emergency and Notices of Intent for items a through f? Commissioner Cormier again stated his motion to adopt the Alternative Method which includes an Affidavit, to include items a through f on the agenda, and the Declarations of Emergency and Notices of Intent ~~supersede those previously published.~~ 76 Commissioner Vujnovich seconded the motion and it passed with no opposition.

(The full text of the Declarations of Emergency and Notices of Intent are made a part of the record.)

#### DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Commercial Fisherman's Assistance  
Program (LAC 76:XVII.101)

The Wildlife and Fisheries Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:13.1.B(1) adopts the rule set forth below. Act 1316 (The Louisiana Marine Resources Conservation Act of 1995) mandates the Department of Wildlife and Fisheries to provide economic assistance to those commercial fishermen who are displaced or severely financially impacted by the loss of the use of commercial fishing nets due to its enactment. Initial promulgation of this rule as a Declaration of Emergency is necessary because the Act establishes a deadline for implementation which predates the earliest date for promulgation of a final rule through non-emergency rulemaking procedures.

This Declaration of Emergency shall be effective on October 25, 1995, and shall supersede the Declaration of Emergency published in the September 1995 Louisiana Register. The Declaration of Emergency remains in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

The Wildlife and Fisheries Commission herein establishes procedures for determining proof of income of applicants for economic assistance under R.S. 56:13.1.

waters, and the possession of that species on the waters of the state with pompano strike nets in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of fish legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

AUTHORITY NOTE: Promulgated in accordance with 56:6(10), 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990); amended LR 22: .

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

Perry Gisclair  
Chairman

Chairman Gisclair then asked for **Public Comments**.

Mrs. Marilyn Rotolo, Delta Commercial Fisheries Association, asked if the Commissioners had read the latest report on the harvest of mullet? Then she stated the catch on mullet fishing was dramatically down and asked for night fishing of mullet to be placed on the agenda. Chairman Gisclair asked Mr. Puckett if the bill specifically prohibited night fishing? Mr. Puckett stated this was legislative statute and could not be changed by the Commission.

Mr. George Barasich asked again if his by-catch from a shrimp trawl could be sold? Mr. Puckett stated the legislation did not affect by-catch out of the shrimp trawls. Then Mr. Barasich asked Enforcement personnel if they would keep the same train of thought that it would be easier for enforcement not to allow trawling at night? Chairman Gisclair stated this was not an issue at this time. Going on, Mr. Barasich asked Lt. Col. Clark how many hours were spent checking the commercial fishermen as compared to the recreational fishermen? Finally he asked if Enforcement was going to publish and circulate the rules affecting Act 1316 so both the

agents and the commercial fishermen would be working from the same set of rules?

There being no further business, Chairman Gisclair Adjourned the meeting.

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Joe L. Herring  
Secretary

JLH:sch



## AGENDA

LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LA  
October 25, 1995  
9:00 AM

1. Roll Call
2. Consideration of Declarations of Emergency and Notices of Intent and/or Amendment of Notices of Intent and Final Rules Listed Below:
  - a) Commercial Fisherman's Assistance Program;
  - b) Net Buy-Back Program;
  - c) Saltwater Commercial Rod and Reel License;
  - d) Spotted Seatrout Management Measures;
  - e) Rules for Harvest of Mullet; and
  - f) Rules for Harvest of Black Drum, Sheepshead and Flounder and Other Saltwater Species Using Pompano Strike Nets;

Concerning Changes to Proof of Income Requirement for 1995.
3. Public Comments
4. Adjourn

## AGENDA

LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LA  
October 25, 1995  
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  - f) Rules for Harvest of Black Drum, Sheepshead and Flounder and Other Saltwater Species Using Pompano Strike Nets;Concerning Changes to Proof of Income Requirement for 1995.
3. Public Comments
4. Adjourn

## **RECOMMENDED CHANGES TO THE COMMISSION RULES REGARDING THE NEW INTERPRETATION OF THE GILL NET LAW.**

The person shall show that he derived more than 50 per cent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 per cent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994, 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 per cent of his income was derived from the legal capture and sale of seafood species may also qualify using the following **ALTERNATIVE METHOD**.

### **ALTERNATIVE METHOD**

Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 per cent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

- (1) Applicant shall submit to the Louisiana Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by ACT 1316.
- (2) The Louisiana Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.
- (3) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).
- (4) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.
- (5) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(6) The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 per cent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(7) The CPA shall provide copies to the Louisiana Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(8) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in ACT 1316 for two twelve-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(9) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

**STATE OF LOUISIANA**

**PARISH OF \_\_\_\_\_**

**AFFIDAVIT**

**BEFORE ME**, the undersigned authority, personally came and appeared

\_\_\_\_\_  
(Certified Public Accountant)

who after first being duly sworn did attest, depose and say:

1. I am a duly licensed Certified Public Accountant in good standing and recognized as such by the state of Louisiana.

2. I have been engaged by \_\_\_\_\_ (Fishing Permit Applicant) to conduct an audit of the source and amount of total earned income as well as earned income derived solely from the capture and sale of seafood species received by above applicant for the period January 1, 1995 through September 30, 1995.

3. I do attest to having examined applicant's financial data and business transactions in accordance with standards accepted by the American Institute of Certified Public Accountants and the Internal Revenue Service.

4. Furthermore, I do certify that applicant is a fisherman and derived 50 per cent or more of his earned income from the capture and sale of seafood species, as evidenced by his documented financial data and business transactions.

5. My examination was made in accordance with generally accepted auditing standards, and accordingly did include such tests of the accounting records, financial data and business transactions as I considered necessary in the circumstances.

6. In my unqualified opinion, the above named applicant has provided sufficient evidence illustrating his business involvement in the commercial fishing industry such that he does in fact qualify as a commercial fisherman who derived more than 50 percent of his earned income from the capture and sale of seafood species during the first nine months of 1995.

7. I hereby attest to the accuracy of the information contained in my accompanying financial statement (as determined by appropriate audit tests) and that current United States tax law in effect as of September 30, 1995 has been applied in arriving at numerical figures contained in said financial statement.

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**AFFIANT (CERTIFIED PUBLIC ACCOUNTANT)**

Sworn to and subscribed before me this \_\_\_\_\_ Day of \_\_\_\_\_, 19\_\_\_\_.

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**NOTARY**

## **DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Commercial Fisherman's Assistance  
Program (LAC 76:XVII.101)**

The Wildlife and Fisheries Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:13.1.B.(1) adopts the rule set forth below. Act 1316 (The Louisiana Marine Resources Conservation Act of 1995) mandates the Department of Wildlife and Fisheries to provide economic assistance to those commercial fishermen who are displaced or severely financially impacted by the loss of the use of commercial fishing nets due to its enactment. Initial promulgation of this rule as a Declaration of Emergency is necessary because the Act establishes a deadline for implementation which predates the earliest date for promulgation of a final rule through nonemergency rulemaking procedures.

This Declaration of Emergency shall be effective on September 1, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

The Wildlife and Fisheries Commission herein establishes procedures for determining proof of income of applicants for economic assistance under R.S. 56:13.1.

**Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part XVII. Commercial Fisherman's Assistance**

##### **Program**

##### **Chapter 1. Proof of Income**

##### **Section 101. Criteria for Establishing Proof of Income and Procedures.**

An applicant for economic assistance shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1995, 1994, and 1993.

Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant.

Fishermen applying for fishing permits which require proof that 50 per cent of his income was derived from the legal capture and sale of seafood species may also qualify using the following **ALTERNATIVE METHOD.**

**ALTERNATIVE METHOD**

Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 per cent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

(1) Applicant shall submit to the Louisiana Department of Wildlife and Fisheries an affidavit signed



by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by ACT 1316.

(2) The Louisiana Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

(3) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(4) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(5) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(6) The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 per cent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(7) The CPA shall provide copies to the Louisiana Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(8) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit

valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in ACT 1316 for two twelve-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(9) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, LR 22:

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Joe L. Herring, Secretary

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Perry Gisclair, Chairman

**NOTICE OF INTENT  
DEPARTMENT OF WILDLIFE AND FISHERIES  
WILDLIFE AND FISHERIES COMMISSION**

Commercial Fisherman's Assistance  
Program (LAC 76:XVII.101)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to establish the procedures for determining proof of income of applicants for economic assistance under the Commercial Fisherman's Assistance Program established by the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The text of this rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments until 4:30 p.m., December 4, 1995, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, LA 70898-9000.

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Perry Gisclair, Chairman

## **DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

### **Saltwater Rod and Reel License (LCA 76:VII.405)**

The Wildlife and Fisheries Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:305.B.(14)(b) adopts the rule set forth below. Initial promulgation of this rule as a Declaration of Emergency is necessary because Act 1316 (The Louisiana Marine Resources Conservation Act of 1995) mandates the Department of Wildlife and Fisheries to implement the Act effective August 15, 1995.

This Declaration of Emergency is effective September 1, 1995, and it remains in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

The Wildlife and Fisheries Commission herein establishes procedures relative to the proof of income of applicants for a saltwater commercial rod and reel gear license.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

##### **Chapter 4. License and License Fees**

##### **Section 405. Saltwater Commercial Rod and Reel License; Proof of Income**

- A. Each applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the three years, 1995, 1994, and 1993.
- B. Proof of income shall be provided by the applicant in the form of a copy of his federal income

tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service and a copy of his state tax return which has been certified by the Louisiana Department of Revenue and Taxation. In the event that the certified copies of the tax returns, including Schedule C, do not confirm the applicant's claim that more than fifty percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant.

Fishermen applying for fishing permits which require proof that 50 per cent of his income was derived from the legal capture and sale of seafood species may also qualify using the following **ALTERNATIVE METHOD.**

**ALTERNATIVE METHOD**

Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 per cent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

(1) Applicant shall submit to the Louisiana Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by ACT 1316.

(2) The Louisiana Department of Wildlife and Fisheries shall make available the affidavit referred to

in #1 and #6.

(3) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(4) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(5) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(6) The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 per cent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(7) The CPA shall provide copies to the Louisiana Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(8) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in ACT 1316 for two twelve-month periods (calendar years) including the years 1993, 1994 and

**1995 exclusively.**

**(9) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.**

**AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.**

**HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, LR 22:**

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**Joe L. Herring, Secretary**

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**Perry Gisclair, Chairman**

## **NOTICE OF INTENT**

### **DEPARTMENT OF WILDLIFE AND FISHERIES WILDLIFE AND FISHERIES COMMISSION**

#### **Saltwater Rod and Reel License (LAC 76:VII.405)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to establish the procedures relative to the proof of income criteria for applicants for a saltwater commercial rod and reel license in accordance with the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments until 4:30 p.m., December 4, 1995, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, LA 70898-9000.

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Perry Gisclair, Chairman



**DECLARATION OF EMERGENCY**  
Department of Wildlife and Fisheries  
Office of Management and Finance

Net Buy-Back Program  
(LAC 76:XVII.301)

The Department of Wildlife and Fisheries is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:13.1.D. adopts the rule set forth below. This declaration of emergency is necessary because Act 1316 of the 1995 Legislature mandates the Department of Wildlife and Fisheries to adopt this rule no later than September 1, 1995, which is the effective date of this Declaration of Emergency.

It shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 76

WILDLIFE AND FISHERIES

Part XVII. Commercial Fisherman's Assistance Program

Chapter 3. Net Buy-Back Program

Section 301. Criteria for Qualification; Procedures

A. Until January 1, 1996, the Department of Wildlife and Fisheries shall purchase from qualified persons those commercial fishing nets that have been rendered illegal or useless due to the enactment of the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

B. In order to qualify, persons must have applied for assistance under the Commercial Fisherman's Assistance Program on or before October 1, 1995, and must have met all of the following criteria: 1. must have purchased a saltwater gill net license in at least two of the years 1995, 1994,

and 1993;

2. during two of those years shall have derived more than fifty percent of his earned income from the legal capture and sale of seafood species;

3. shall not have been convicted of any fishery-related offense that constitutes a class three or greater violation; and

4. must have been a bona fide resident of Louisiana on June 30, 1995.

C. Proof of income shall be provided by the applicant in the form of a copy of his federal tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. The Department of Wildlife and Fisheries can provide the applicant with the appropriate Internal Revenue Service form to request this. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant.

Fishermen applying for fishing permits which require proof that 50 per cent of his income was derived from the legal capture and sale of seafood species may also qualify using the following

#### **ALTERNATIVE METHOD.**

#### **ALTERNATIVE METHOD**

Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that

50 per cent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. **Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.**

(1) Applicant shall submit to the Louisiana Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by ACT 1316.

(2) The Louisiana Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

(3) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(4) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(5) The CPA shall prepare a financial statement depicting and listing separately applicant's **total earned income as well as his earned income derived solely from the capture and sale of seafood species.** This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(6) The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 per cent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(7) The CPA shall provide copies to the Louisiana Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(8) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in ACT 1316 for two twelve-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(9) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

D. Beginning September 1, 1995, qualified persons desiring to have their nets purchased by the Department of Wildlife and Fisheries may obtain an application form provided by the department from any departmental district office; the completed form shall include all information necessary to assist in the determination of the eligibility status of the applicant. All requested information regarding size, type and number of nets must be provided. The completed form, along with proof of income as

described herein, a copy of the applicants Louisiana driver's license, and copies of appropriate saltwater gill net licenses, shall be submitted no later than October 1, 1995, to the Commercial License Section of Wildlife and Fisheries located at 2000 Quail Drive, Baton Rouge, LA or by mail to P. O. Box 98000, Baton Rouge, LA 70898. Applicants will be notified by mail as to the disposition of their application.

E. Only those nets that were legal for use in the saltwater areas of this state on June 1, 1995, and only those nets in usable condition, will be eligible for purchase under the provisions of Act 1316 and this Declaration of Emergency.

F. Applicants must have had a gear license issued in their name for at least one of the years 1995, 1994, or 1993, for the specific type of net(s) being presented for purchase. This is in addition to the requirements for having a saltwater gill net license for two of the three years.

G. Monetary reimbursement for nets to be purchased under this declaration of emergency shall be determined based on the availability of funds collected from the issuance of the Louisiana Marine Resources Conservation Act Stamp. Funds collected through June 30, 1996, will be distributed as follows: 30 percent to the Enforcement Division of the Department in accordance with the Act, and the remaining 70 percent to be made available for the net buy-back portion of the Commercial Fisherman's Assistance Program. Subsequent to June, 1996, 70 percent of the revenue collected from the LMRC Stamp will be used for the remainder of the Commercial Fisherman's Assistance Program as defined in Act 1316, R.S. 56:13.1.C.

H. The disbursement of available funds for nets shall be calculated on a pro rata basis to accommodate the number of qualified applicants at a rate not to exceed 50% of the average cost of each qualifying net. The following is a schedule of the maximum amount to be paid for each type and size of net based upon 50 percent of the average standard 1995 catalog prices not including sales tax, shipping charges, or options. Actual prices to be paid will be limited by the number of qualifying nets

and by the amount of revenue collected .

Gill Nets		Seines
<u>Mesh Depth</u>	<u>Price per foot</u>	<u>Price per foot</u>
4' - 6'	\$ .25	\$ .76
over 6' - 8'	\$ .30	\$ .80
over 8' - 10'	\$ .38	\$ .87
over 10' - 12'	\$ .42	\$ .92
over 12' - 14'	\$ .44	\$ .96
over 14'	\$ .53	\$ 1.02

Trammel Nets

	<u>Price per foot</u>
4' - 6'	\$ .38
over 6' - 8'	\$ .40
over 8' - 10'	\$ .43
over 10'	\$ .45

Fish Trawls

Complete	\$ 11.22 per foot of trawl width
Trawl only	\$ 6.84 per foot of trawl width

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, LR 22:

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Joe L. Herring, Secretary

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Perry Gisclair, Chairman

**NOTICE OF INTENT**  
**DEPARTMENT OF WILDLIFE AND FISHERIES**  
**Office of Management and Finance**

**Net Buy-Back Program**  
**LAC 76:XVII.301)**

The Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule to establish a schedule showing the amount to be paid for each type and size of net to be purchased under the Net Buy-Back Program portion of the Commercial Fisherman's Economic Assistance Program and to establish procedures for application. This is in accordance with the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments until 4:30 p.m., December 4, 1995, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, LA 70898-9000.

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Joe L. Herring, Secretary

**Declaration of Emergency  
Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Black Drum, Flounder, and Sheepshead Harvest  
(LAC 76:VII.349)**

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(10), 56:6(25)(a), 56:326.1, 56:326.3, and 56:325.4 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the Commission establish rules for the implementation of the Louisiana Marine Resources Conservation act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

The Wildlife and Fisheries Commission herein establishes rule and regulations governing the harvest of black drum, flounder, sheepshead and other saltwater finfish (other than red drum, spotted seatrout, and mullet) with pompano strike nets.

**Title 76**

**Wildlife and Fisheries**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing**

**S. 349. Rules for Harvest of Black Drum, Sheepshead, Flounder and Other Saltwater Species using Pompano Strike Nets.**

**A. Drum/Sheepshead Strike Net Permit**



1. The commercial taking of black drum, sheepshead and flounder with pompano strike nets is prohibited except by special permit issued by the Department of Wildlife and Fisheries, hereby designated as a Drum/Sheepshead Strike Net Permit. This permit is required in addition to the Pompano Strike Net License required by law.

2. No person shall be issued a Drum/Sheepshead Strike Net Permit unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 per cent of his income was derived from the legal capture and sale of seafood species may also qualify using the following **ALTERNATIVE METHOD**.

## **ALTERNATIVE METHOD**

Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 per cent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

(1) Applicant shall submit to the Louisiana Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by ACT 1316.

(2) The Louisiana Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

(3) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(4) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(5) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(6) The CPA shall provide an unqualified opinion attesting to the nature and amount of the

applicant's earned income and whether said income complies with the requirement that more than 50 per cent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(7) The CPA shall provide copies to the Louisiana Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(8) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in ACT 1316 for two twelve-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(9) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

c. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

d. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

3. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any Drum/Sheepshead Strike Net Permit and shall be forever barred from receiving any such permit in the future.

**B. Commercial Taking of Saltwater Finfish using Pompano Strike Nets**

1. There shall be two seasons for the commercial harvest of all species of saltwater finfish (other than mullet, spotted seatrout and red drum) with a pompano strike net: the first season shall open on Monday October 16, 1995, and end with the closure of the mullet strike net season, but no later than March 1, 1996; the second season shall open on Monday October 21, 1996, and end with the closure of the mullet strike net season, but no later than March 1, 1997. A season for the taking of these species shall be closed prior to the dates listed in this paragraph if the commercial quota for that species has been taken, or on the date projected by the staff of the Department of Wildlife and Fisheries that a quota will be reached, whichever occurs first. The closure shall not take effect for at least seventy-two (72) hours after notice to public.

2. During these two seasons the commercial harvest of these species with pompano strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of these species with pompano strike nets during the period after sunset and before sunrise.

3. The commercial taking of these species by using a pompano strike net in excess of 1200 in length is prohibited. Furthermore, use of more than one pompano strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the Drum/Sheepshead Strike Net Permit number, if applicable. The department shall not issue any tag to a person who does not have a social security number.

5. Each Drum/Sheepshead Strike Net Permit holder shall on or before the tenth of each month file a return to the department on forms provided or approved for the purpose, the pounds of black drum from (16) to (27) inches, the number of black drum over (27) inches, the pounds of sheepshead and the pounds of flounder taken commercially during the preceding month, the gears used for harvest, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

C. General Provisions

Effective with the closure of a commercial season for black drum, sheepshead, or flounder, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of that species on the waters of the state with pompano strike nets in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of fish legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

AUTHORITY NOTE: Promulgated in accordance with 56:6(10), 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990); amended L.R.22: \_\_\_\_ (\_\_\_\_ 1996).

**Notice of Intent**  
**Department of Wildlife and Fisheries**  
**Wildlife and Fisheries Commission**

Black Drum, Sheepshead, and Flounder Harvest  
(LAC 76:VII,349)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule (Title 76, Part VII, Ch. 3, Sec. 349) to establish regulations governing the commercial harvest of black drum, flounder, sheepshead and other saltwater finfish (other than red drum, spotted seatrout, and mullet) with pompano strike nets. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in R.S. 56:6(10); 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this issue of the Louisiana Register.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and

correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Louisiana Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

**Declaration of Emergency  
Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Spotted Seatrout Harvest (LAC 76:VII.341)**

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(10), 56:6(25)(a), 56:325.3, 56:326.3, and 56:325.3 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the Commission establish rules for the implementation of the Louisiana Marine Resources Conservation act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

**Title 76**

**Wildlife and Fisheries**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing**

**S. 341. Spotted Seatrout Management Measures**

**A. Commercial Season; Quota; Permits**

1. The season for the commercial taking of spotted seatrout shall begin at sunrise on the third Monday in November of each year, and close at sunset on May 1 the following year or when the quota has been reached or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first.



2. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial quota for spotted seatrout shall be one million pounds for each fishing season.

4. Permits

a. The commercial taking of spotted seatrout is prohibited except by special non-transferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements:

(i). The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

(ii). The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in

preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 per cent of his income was derived from the legal capture and sale of seafood species may also qualify using the following **ALTERNATIVE METHOD.**

#### **ALTERNATIVE METHOD**

Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 per cent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

(1) Applicant shall submit to the Louisiana Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by ACT 1316.

(2) The Louisiana Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

(3) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(4) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered

to in the evaluation of applicant's documentation.

(5) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(6) The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 per cent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(7) The CPA shall provide copies to the Louisiana Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(8) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in ACT 1316 for two twelve-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(9) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being

issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

(iii). The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

(iv). The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

5. Each Spotted Seatrout Permit holder shall, on or before the 10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of spotted seatrout taken commercially during the preceding month, and the commercial dealers to whom these were sold, if sold. Monthly reports shall be filed, even if catch or effort is zero.

**B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons**

1. There shall be two seasons for the commercial harvest of spotted seatrout with a mullet strike net: the first season shall open on Monday, November 20, 1995, and end no

later than March 1, 1996; the second season shall open on Monday, November 18, 1996, and end no later than March 1, 1997. Such seasons shall be closed prior to the dates listed in this paragraph if:

(a) one million pounds of spotted seatrout have been taken commercially during a fishing season; or

(b) on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first. The closure shall not take effect for at least seventy-two (72) hours after notice to the public.

2. During these two seasons the commercial harvest of spotted seatrout with mullet strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial taking of spotted seatrout by using a mullet strike net in excess of 1200 feet in length is prohibited. Furthermore, use of more than one mullet strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take spotted seatrout. The department shall not issue any tag to a person who does not have a social security number.

#### C. Commercial Taking of Spotted Seatrout Using Other Commercial Gear

1. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

2. During the 1995-1996 season for harvest of spotted seatrout with a mullet strike net, all

other legal methods of harvest may also be used until March 1, 1996. After that date, only commercial rod and reel may be used for the commercial harvest of spotted seatrout, provided that the commercial harvest of spotted seatrout does not exceed the commercial quota.

3. During the 1996-1997 season for commercial harvest of spotted seatrout with a mullet strike net, only a mullet strike net or a commercial rod and reel may be used for the commercial harvest of spotted seatrout provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

4. Following the closure of the 1996-1997 season for the harvest of spotted seatrout with a mullet strike net, only a commercial rod and reel shall be used for the commercial harvest of spotted seatrout, provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

#### D. General Provisions

Effective with the closure of the commercial season for spotted seatrout, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of spotted seatrout on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of spotted seatrout legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); 56:325.3; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended, Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, L.R.22:\_\_\_\_ (\_\_\_\_, 1996).

**NOTICE OF INTENT**  
**Department of Wildlife and Fisheries**  
**Wildlife and Fisheries Commission**

**Spotted Seatrout Harvest (LAC 76:VII.341)**

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule (Title 76, Part VII, Ch. 3, Sec. 341) to amend the regulations governing the commercial harvest of spotted seatrout. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); 56:325.3; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this issue of the Louisiana Register.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.



Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Louisiana Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

**Declaration of Emergency  
Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Mullet Harvest (LAC 76:VII.343)**

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(25)(a), 56:326.3, and 56:333 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the Commission establish rules for the implementation of the Louisiana Marine Resources Conservation act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

**Title 76**

**Wildlife and Fisheries**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing**

**S. 343. Rules for Harvest of Mullet**

**A. Seasons**

1. The season for the commercial taking of mullet shall begin at sunrise of the third Monday in October of each year and close at sunset of the third Monday in January of the following year. Mullet may not be taken commercially at any time outside of this season.

2. Commercial harvest of mullet shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of mullet during the period after sunset and before sunrise.

**B. Commercial Taking**

1. Mullet may only be taken commercially with a mullet strike net, which may not be constructed of monofilament. The commercial taking of mullet by using a mullet strike net in excess of 1200 feet or by using more than one mullet strike net from any vessel at any time is prohibited.

2. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take mullet. The department shall not issue any tag to a person who does not have a social security number.

**C. Commercial Limits:** During the season, there shall be no daily take or possession limit for the commercial harvest of mullet by properly licensed and permitted fishermen.

**D. Recreational Limits:** The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person per day.

**E. Permits**

1. The commercial taking of mullet is prohibited except by special permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

2. No person shall be issued a license or permit for the commercial taking of mullet unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a Certified Public Accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 per cent of his income was derived from the legal capture and sale of seafood species may also qualify using the following **ALTERNATIVE METHOD.**

#### **ALTERNATIVE METHOD**

Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 per cent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the

qualifying standard. **Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.**

(1) Applicant shall submit to the Louisiana Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by ACT 1316.

(2) The Louisiana Department of Wildlife and Fisheries shall make available the affidavit referred to in #1 and #6.

(3) CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(4) The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(5) The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(6) The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 per cent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(7) The CPA shall provide copies to the Louisiana Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(8) The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the Alternative Method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in ACT 1316 for two twelve-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(9) Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

c. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

3. No person shall receive more than one permit or license to commercially take mullet.

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

5. Each Mullet Permit holder shall, on or before the 10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of mullet taken commercially during the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

F. General Provisions : Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of spotted seatrout legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S.306.

G. In addition, all provisions of R.S. 56:333(C) are hereby adopted and incorporated into this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)a), 56:325.1, 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended L.R. 21:\_\_\_ (January, 1995), amended L.R. 22:\_\_\_ (\_\_\_\_\_, 1996).

**NOTICE OF INTENT**  
**Department of Wildlife and Fisheries**  
**Wildlife and Fisheries Commission**

Mullet Harvest (LAC 76:VII.343)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule (Title 76, Part VII, Ch. 3, Sec. 343) to amend the regulations governing the commercial harvest of mullet. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included R.S. 56:6(25)(a); 56:326.3; 56:333; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this issue of the Louisiana Register.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division,



Louisiana Department of Wildlife and Fisheries, P.O. Box 98000,

Baton Rouge, LA 70893-9000, prior to January 3, 1996.



## Louisiana Seafood

October 24, 1995

Mr. Perry Gisclair, Chairman  
LA Wildlife & Fisheries Commission  
141 West 139th Street  
Cut Off, LA 70345

Dear Mr. Gisclair:

Our offices have been receiving at least 20 calls daily from commercial fishermen who are confused about what they need to do in order to qualify under the so called Marine Conservation Act of 1995. Apparently, there are many unanswered questions: What paper work do they need to submit in order to qualify? How will the net buy-back program work? Can shrimpers keep drum, sheepshead, flounder and trout which may be caught in shrimp trawls and if, not, what are the penalties for such? What provisions, if any, are there for commercial gill net fishermen who may have been in partnership during one or more of the years 1993, 1994 and 1995? Can you keep any fish other than mullet and trout caught in a mullet strike net, and if not, where does the bill specifically state that only mullet and spotted trout can be caught in a mullet strike net? Fishermen interpret this section of the law to say mullet and spotted trout may only be taken with a mullet strike net. But no where does the law state that sheepshead, drum, white trout, flounder, etc. "shall be caught exclusively with a pompano strike net." This, they contend is a matter of interpretation.

These are just a few sample questions and dilemmas which have arisen as a result of how Act 1315 is interpreted. In the spirit of cooperation, we implore the Commission and/or the Department to host a series of meetings as well as to issue a press release to clarify the misunderstanding and confusion. Finally, I have attached additional questions which have arisen.

Sincerely,



Todd Gerald  
Chairman

TD/vc  
Attachments

cc: SEAFOOD PROMOTION AND MARKETING BOARD  
P. T. Bailey  
Andrew Blanchard  
Thomas Bush, Jr.  
William Chauvin  
Darryl Daigle  
Kenneth Fox  
Joe L. Herring, Secretary  
Mary Hemard  
Harlon Pearce  
John Roussel  
Robert Samanie, III  
Henry Truelove  
Mike Voisin

COMMISSION MEMBERS  
Capt. Peter Vujnovich  
John "Jeff" Schneider  
Joseph Cormier  
Jerald Hanchey  
Glynn Carver  
Tee John Mialjevich

Louisiana Seafood Promotion & Marketing Board

## **Legal Problems**

**Use of seines**- new version of 320.1 prohibits use or possession of seines in saltwater areas, and 322(C)(2) is repealed, which eliminates the minimum mesh sizes and maximum length of nets for seines. Section 5 of the bill states that nothing in the bill applies to "the harvest of shrimp... in saltwater areas". Effect of this is to allow use of any size mesh, any length of seine, to harvest shrimp. **Can fishermen keep finfish bycatch? If not, why.**

**unattended nets** - definition says "licensee thereof cannot be located within 200 feet thereof." Does this mean that if the agent is within 200 feet of the net, and he can see the fisherman, the fisherman is in attendance?

**SW stamp** - 1) Is possession of the Marine Resources Conservation Stamp (MRCS) necessary to fish in salt water? If so, what about persons who already purchased a license for the 1995-96 license year? 2) What about people who are exempt from purchasing a saltwater license. Are they also required to purchase a stamp? 3) If not, does the fund 56:13(B)(1) receive \$3 per fisherman, per license, or just the total income from the sale of stamps?

**gill nets licensed in the EEZ** - Is it legal to charge a license fee for use of a gear which can only be used in federal waters?

**Rod and reel license** - requires that the applicant not have been convicted of class 3 or greater violation. Does this constitute double jeopardy, or punishment after the fact? Should this provision only be used if a person is convicted of a class 3 after the effective date of this bill? 2) Under present rules, bandit gears, as are used for reef fish, are considered a "hook and line" license. Are they now considered to be a "rod and reel?" If these fishermen are now required to purchase a rod and reel license, it might eliminate many of them from the fishery, since many of them have not purchased gill net licenses. Also, many non-resident fishermen may be excluded under unless their resident state also has a rod and reel license.

**EEZ permits**- Is it legal to charge a fee for permits for transit of state waters to federal waters? Is it legal to regulate the transport of gear at all?

**If a person resides in the coastal zone, and fishes gill nets, trammel nets, or seines in freshwater areas, how does this section apply to his possession of gear in his yard, in his boat, in transit to freshwater areas, etc. (this also is applicable if the person uses monofilament gear). Are persons electing to fish mullet or underutilized species during the designated seasons required to obtain a permit? Does the section eliminate the use of bait seines in saltwater areas, as provided in 56:323?**

**Trout seasons** - prior to the specified season for harvest of trout with mullet strike nets, existing Commission rule establishes opening date of trout season as Sept. 15. Can trawls, hoop nets, crab traps, rod and reel, etc., be used for commercial harvest at this time? It seems that only rod and reel can be used after the strike net season. What about before? 2) Can the Commission change

quotas (or seasons?) for the designated time periods, or following those periods? 3) Section E says no person may receive more than one permit or license. What about duplicates to replace lost permits?

Other SW finfish - Does this section eliminate the harvest of flounder, black drum, etc. by the use of trawls, etc. on weekends or at night? 2) Does 325.4(A), line 3, allow the use of a pompano strike net to take red drum? Other sections of law prohibit the sale, but the section that prohibited possession with a gill net was 325.3, prior to this bill. 325.4(B) mentions "license or permit", but no permit is mentioned elsewhere in section. Should the Commission establish a permit for commercial taking of "underutilized species"? (note: "underutilized species" in this section does not fit the definition in 56:8(102). 2) Do trawl boats, and other legal commercial gear users need to meet the criteria outlined for permits in this section? If so, shrimpers would be eliminated from catching and keeping trawl caught blackdrum, trout, or sheepshead. 3) Is there one permit for all species, for each of the three species mentioned, or none of the above?

333. Mullet - Can the Commission establish seasons or limits for taking of mullet outside of the time periods described? It does not seem to be able to. There does not seem to be a specific prohibition on the possession of more than one mullet strike net.

METRO NEWS

# Total ban on gill nets sought by 3 legislators

By JOANNA WEISS  
St. Bernard/Plaquemines bureau

Complaining that Louisiana's gill net ban has been watered down in closed-door meetings, three state legislators vowed Tuesday to introduce another bill banning all use of the nets.

Rep. Warren Triche, D-Thibodaux, who sponsored this year's gill net ban, said he will ask the next governor to include a gill net bill in the next special session of the Legislature. If that doesn't work, he said, he'll introduce resolutions, bills and Constitutional amendments to ban the nets as soon as he can.

Triche, state Sen. John Hainkel, R-New Orleans, and state Sen. Don Cravins, D-Lafayette, issued a news release Tuesday, pledging to revive a total ban and lambasting state Sen. President Sammy Nunez, D-Chalmette, for his efforts to reinterpret the current law.

At Nunez's urging last week, officials from the governor's office, the Senate and the Department of Wildlife and Fisheries

adjusted some of the department's new licensing rules. Commercial fishermen had complained that the law, strictly interpreted, prevented many longtime fishermen from receiving licenses.

But Hainkel said the administrative maneuvers were changing the intent of the gill net law, and abusing the compromises that ban advocates made with commercial fishing interests.

"We were trying to operate in good faith, and we assumed they were. . . . You try to be a good guy and you get shot down."

The original gill net bill would have banned all uses of gill nets statewide. And Hainkel said the ban would have passed easily: "We had the public on our side, we had the people on our side, we had the votes." But amid emotional debate — and the threat of a veto — the ban's supporters amended the bill, allowing limited use of the nets.

The Louisiana Marine Resource Conservation Act, which became law without Gov. Edwards' signature, allows gill-netting only for mullet and

pompano, limits the gill net season, and restricts the times of day gill-netters can work.

The bill passed 86-16 in the House and 33-5 in the Senate. A statewide poll, commissioned by gill-net supporters, showed that 69 percent of voters supported a gill net ban.

Net ban advocates say the nets are wiping out Louisiana's fish. Commercial fishermen, who are opposing the law in court, say there is no scientific evidence that fish stocks are in danger.

Next year's regular legislative session must be devoted only to financial issues. But the governor can call a special session anytime — and with a new governor in office and a Medicaid crisis looming, a special session is likely early next year.

State Sen. Mike Foster, the front-runner for governor, voted for the gill net law. In the early days of his gubernatorial campaign, Foster, an avid sportsman, ran a newspaper ad supporting the gill net ban.

Neither Foster's campaign nor U.S. Rep. Cleo Fields' campaign could be reached Tuesday.

# OUTDOORS

## THE WILD SIDE



JOE MACALUSO  
OUTDOORS WRITER

## Gill net ban law attacked again

It's possible that sometime this week the latest wrinkle in the new gill nets ban law could be ironed out.

Until then, we'll see another chapter in the continuing Louisiana saga of As The Foxes Guard the Hen House.

Of course, reviews of this chapter depend on who you believe has the right to catch our state's fish and how they must do it. Law is law, and three men — who by their action or inaction tried to keep the gill nets ban bill from becoming law — have figured out a way to gut one significant regulation in the new law.

The three are State Senator Sammy Nunez, Gov. Edwin Edwards and Department of Wildlife and Fisheries secretary Joe Herring. Nunez, from St. Bernard Parish, bitterly opposed the bill from the beginning. While not vetoing the bill, Edwards showed his dislike by not signing it when it hit his desk. While the bill sat on Edwards' desk, Herring wrote a lengthy letter to the governor indicating he believed the bill was flawed and that it should be vetoed.

Here's a rough outline of what's transpired over the last three weeks.

The state's mullet season opened Monday with much more restrictive rules as mandated by the law.

One of the rules demanded that fishermen show proof they had purchased the same licenses in two of the three years to include 1993, 1994 and 1995. The bill's original wording included 1992-94, but opponents substituted 1995 for 1992. With the 1995 mullet season beginning two months after the bill became law, net fishermen were virtually eliminated from using 1995 as a year they could use to meet this new requirement.

So if a commercial netter had purchased a mullet license in only one of the previous two years, he didn't qualify.

A second claim was that fishermen who had used nets the last two years in a partnership with another netter — and the partner had purchased the license — were being denied a '95 license. That was because his name was not on the original license for the two qualifying years.

Another claim was that fishermen were having trouble proving that 50 percent of their income came from fishing this year. That was another of the law's qualifiers.

On Oct. 6, Nunez asked Wildlife and Fisheries to change its interpretation of the law and sell licenses to these fishermen. LDWF held its interpretation.

Nunez then went to Edwards' executive council Connie Koury, who on Oct. 13, drafted a four-page letter to Herring that opened by describing Act 1316, the gill net ban law, as "a very poorly drafted piece of legislation," and ended by telling Herring that "in my opinion, we could legally follow the recommendations of Mr. (George) Carmouche (a state senate employee). The governor has asked me to advise you of the same at this time and to request that you do what is necessary to correct this situation."

"Correct" meant selling licenses to 224 commercial netters who did not meet any or all of those three requirements.

Nunez boldly proclaimed, on State Senate letterhead and in the middle of a hotly contested race for his senate seat, that he opened the door for commercial fishermen to the mullet season.

"I could not stand by and let over 200 hard-working commercial fishermen in South Louisiana be further victimized by an already onerous gill net law," Nunez was quoted as saying in the news release.

OK, so if you didn't know there would be problems implementing this law, then you know it now. Somehow, you would hope when second and third legal opinions came that feathers wouldn't show through the winners' smiles.



EDWIN W. EDWARDS  
GOVERNOR

## State of Louisiana

### OFFICE OF THE GOVERNOR

CONSTANCE A. KOURY  
EXECUTIVE COUNSEL

October 13, 1995

Department of Wildlife and Fisheries  
Mr. Joe Herring, Secretary  
2000 Quail Drive  
Baton Rouge, La. 70898

Re: Legal interpretation of Act 1316

Dear Mr. Herring:

As you know Act 1316 is a very poorly drafted piece of legislation. In view of the fact that your legal counsel had to interpret certain Sections of the law for the department to determine the basis of implementation indicates that the law in many areas is uncertain and clearly leads to ambiguous application.

The spirit of the law was intended to allow historical commercial fisherman entry into the fisheries they were fishing last year. At this time we are dealing with the mullet fishery, in particular, since that season opens next Monday.

Please refer to the attached document entitled Interpretation of Law which your legal counsel, Mr. Don Puckett, reviewed and responded to last week. Also, find a copy of Mr. Puckett's response. Mr. George Carmouche, who is employed on the senate staff, had a three hour conference last week to discuss these issues with Mr. Puckett, Mr. Prejean, and Ms. Hunter, on your staff wherein these issues were discussed at length. You and Mr. Puckett met in my office along with Mr. Carmouche in another very lengthy conference to go over these issues again.

To recap both of these conferences Mr. Puckett has agreed that, although, his opinion differs from the interpretation given by Mr. Carmouche, he cannot say that this opinion is incorrect, invalid, or that it would not be the prevailing interpretation if this matter is litigated. The governor has asked me to review both opinions and advise him of my findings.

There are basically three scenarios outlined in the memo attached which are causing some of the fisherman who have been fishing mullet in the past not to qualify for permits. Their failure to qualify is due to the interpretation by Mr. Puckett which was rendered prior to fisherman applying for permits and being denied. They clearly should qualify under Act 1316. Throughout the controversy on this bill during the last session of the legislature the proponents of the bill did not intend for existing fisherman to be eliminated from the mullet fishery by the wording of this Act. The basic intent was to keep new fisherman, particularly Florida fisherman, from entering the fishery this year and into the future.

The Section of law involved in these issues R.S.56:333(D)(1), states:

"No person shall be issued a license or permit for the taking of mullet unless that person meets all of the following requirements:

(a) The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

(b) The person shall provide copies of unamended, original income tax returns, including Schedule C from the federal form 1040, which show that the person derived more than fifty percent of his earned income from the capture and sale of seafood species in any of two of the years 1995, 1994, and 1993."

The three types of situations which are eliminating current fisherman are as follows:

(1) Some fisherman, for various reasons meet all requirements except they have purchased a gill net gear license in only one year out of 1993 and 1994. If those fisherman were allowed under the current law to purchase a 1995 mullet strike net gear license, which is a gill net as defined in Section 333(D)(1)(a), and is clearly a qualifier under the same Section, they would then qualify for the purchase of a mullet permit as detailed in Section 333. The departments legal interpretation of a 1995 purchase of a gill net gear license is limited to the gear as defined in the prior law in Section 305(B)(4). In the current law, the same Section now calls that gear a "Mullet strike net". A mullet strike net is the same gill net which was licensed under the prior law.

The new law allows a fisherman to qualify with proof of purchase of a 1995 saltwater gill net. Therefore, a purchase of a 1995 mullet strike net gear license should be allowed since it is still 1995 and the mullet strike net is the same net licensed under prior law. Under Mr. Carmouche's interpretation the only fisherman who could qualify under this interpretation are those who have been in the fishery in years prior to the enactment of Act 1316. In addition to having this 1995 license, they must also have a 1993 or 1994 license. The Section of law cited above clearly states "in any two of the years 1993, 1994, or 1995." These fisherman were not intended to be eliminated by Act 1316. Act 1316 is a very restrictive limited entry law to prevent new fisherman entry into these fisheries after the effective date.

(2) Some fisherman meet the gear requirements of Act 1316, but, for whatever reason only earned more than fifty percent of their income from commercial fishing in one of the years 1993 and 1994. However, like the scenario above Section 333 allows a fisherman to meet income requirements with proof of two out of three years 1993, 1994, or 1995. If a fisherman's income meets the requirement in 1993 or 1994 and thus far in 1995 he should be allowed a method of proof of his 1995 income, in this the third quarter of the year, to be followed by the filing of his 1995 income tax return, which cannot be filed until 1996. It is a ludicrous conclusion to find that a fisherman under the above circumstances will qualify next year, but, does not qualify this year. To reach this conclusion could very well eliminate permanently a fisherman who is clearly intended to remain in the fishery under Act 1316.



(3) Some historical fisherman who are being eliminated by your prior interpretation have been legally in the mullet fishery for years through a partnership arrangement whereby they have maintained all licenses required of them with the exception of a gill net gear license due to the fact that their partner had purchased that license in his name, half of which was paid by the other partner under the terms of their partnership agreement, all of this arrangement being perfectly legal under the law.

The requirement to qualify under Section 333 of Act 1316 allows the fisherman to show proof that he had purchased a valid Louisiana commercial saltwater gill net license in two of the three years 1993, 1994, or 1995. Under the above scenario the partner who paid half of the fee for that gear had purchased a valid Louisiana commercial saltwater gill net license as provided in Act 1316. The law clearly does not require the department to prove the purchase, but, requires the "person" to do so. Also, the law does not specify that the fisherman show proof that the license was purchased from the department only that it was valid. This partnership arrangement was clearly legal and valid and so was the method of purchase of the gill net license by the partner who is not showing up in your computer is valid.

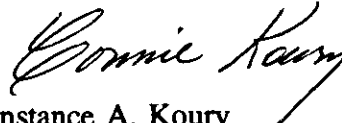
In case studies the law seems clear that an interpretation of a legislative Act which would render the conclusion of law to be ludicrous is inappropriate. "Where language of statute is susceptible of different meanings, conflicting and/or illogical ones, the Supreme Court is authorized to interpret it as having meaning that best conforms to its purpose. **Thomas v. Insurance Corp. of America, Sup. 1994, 633 So. 2d 136.** "Weight is given to doctrine of contemporaneous construction (by an administrative agency, added for clarity) only when statute under review is ambiguous and susceptible of two reasonable interpretations. **Parker v. Cave, 1941, 198 La. 267, 3 So.2d 617.** "Legislative intent should not be defeated by strict adherence to letter of statute or interpretation leading to absurd consequences." **The Przemyśl, D.C. 1927, 23 F. 2d 336.**

As both you and Mr. Puckett have agreed that the interpretations of Act 1316, as stated above, are valid interpretations of the law and clearly the proponents of the Act did not intend to eliminate these fisherman. It is my opinion that our responsibility where there are several possible interpretations would be to accept the interpretation which would allow as many, if not all, historical commercial fisherman to qualify under the Act.

When we were considering signing or vetoing this bill, there were numerous examples I could find for vetoing the bill because of faulty drafting. The most notable example was a "not" being omitted which, if interpreted literally, would mean that only illegal aliens could qualify under this law. I was inundated with calls from legislators, their staffs, GCCA members, officials, and other proponents citing all of the same law and reasoning I include as reasons for signing the bill. They even told us the department could ignore certain Sections of the law. I concurred with their legal reasoning then and apply it now to this situation. Here, we do not have the blatant errors we had then. In the instant case the law, as written, in two of the scenarios clearly could be read as Mr. Carmouche proposed. The law never limits 1995 to an effective date or specific date. Furthermore, to say that a fisherman must have fifty percent or more of his income from commercial fishing in any of two of the three years 1993, 1994, and 1995; and then prevent him from fishing one-half of 1995 clearly leads to a ludicrous result.

I have advised the governor that, in my opinion, we could legally follow the recommendations of Mr. Carmouche. The governor has asked me to advise you of the same at this time and to request that you do what is necessary to correct this situation.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Constance A. Koury". The signature is written in black ink and is positioned above the printed name.

Constance A. Koury

## **INTERPRETATION OF LAW**

**1. Fact: Fisherman has commercial fishing license, meets income requirement, has only had gillnet gear license for 1994.**

**Law: §333(D)(1) No person shall be issued a license or permit for the taking of mullet unless that person meets all of the following requirements:**

**(a) The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.**

**(b) The person shall provide copies of unamended, original income tax returns, including Schedule C from the federal form 1040, which show that the person derived more than fifty percent of his earned income from the capture and sale of seafood species in any of two of the years 1995, 1994, and 1993.**

**Conclusion: Section 333 deals with the issue of permitting the taking of mullet. Subsection (B) 1 through 5 deal with the requirement of permits for the purpose of taking mullet, the cost of the permit, and the requirement that the mullet strike net be tagged with the permit identification. Therefore, the applicant purchases a 1995 mullet-strike net which is defined as a gillnet. Applicant then meets all qualifications income for two of the three years and gear license for two of the three years and should be issued a permit for the gear upon application therefor. (Mike Trosclair) (Jason Estes)**

**2. Fact: Fisherman has maintained commercial fishing license, commercial gear license for two of the three years 1995, 1994, and 1993. Because of circumstances beyond his control he derived more income from other sources in 1993, but, has more than fifty percent of his income in 1994 and 1995 from the capture and sale of seafood species.**

**Law: same as number (1) above.**

**Conclusion: Fisherman furnishes proof of valid purchase of all necessary licenses for 1993 and 1994, provides copies of income tax returns to satisfy requirement for 1994 and affidavit with copies of all receipts claiming that more than fifty percent of his income has been derived and will be derived in 1995 as will be reflected when he files his income tax return for 1995.**

**Therefore, all current licenses and permits should be issued upon application and furnishing of such proof.(Mike Serigne)**

**3. Fact: In November 1993 bought gear license to fish and did fish in 1993. Department sold him a 1994 gear license in November 1993. He was boarded while fishing in 1993 nothing was said about 1994 license being used.**

**Law: §305.1 says that a gear license is valid for one year from January 1st through December 31st. License can be purchased at anytime during the year. Also, after October a license for the next year may be purchased.**

**Conclusion: I am informed that it was a common practice in the department to recognize a license for the upcoming year to be used after October of the previous year. If applicant had been required to buy a 1993 license in Nov. of 1993 he would have purchased his 1994 license and be in compliance. Therefore, due to the practices of the department this applicant is now being denied. He should be recognized as having purchased a valid license for the years 1993 and 1994 for purposes of the new law.(Roland Navarra)**

**4. Fact: Fisherman A was in partnership with another fisherman B. Fisherman A had a commercial fishing license and any other licenses required by law. Also, under §305.2 and 3 fisherman A was fishing in partnership legally with fisherman B under privilege of fisherman B's gear license. Fisherman A and B happened to be the one who purchased the gear license in the years 1993 and 1994. Fisherman A and B split all cost and receipts which they claimed on their individual income tax returns.**

**Law: §333, mullet permit requirements. Same as cited in No.1.**

**Conclusion: Therefore, fisherman A had purchased a valid Louisiana commercial saltwater gill net license (albeit from his partner) he should qualify under the terms of Act 1316.(Mark Tinney)**

# State of Louisiana



Joe L. Herring  
Secretary

Department of Wildlife and Fisheries  
Post Office Box 98000  
Baton Rouge, LA 70898-9000  
(504) 765-2800

Edwin W. Edwards  
Governor

October 6, 1995

Post-It™ brand fax transmittal memo 7671		# of pages > 2
To <i>George Carmichael</i>	From <i>Pat Pouch</i>	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	

Senator Samuel B. Nunez  
State Senator  
Post Office Box 94183  
Baton Rouge, LA 70804-9183

SUBJ: Qualifications for Commercial Fisherman

Dear Senator Nunez:

This is in response to your letter of October 5, 1995. The below responses correspond to the numbered questions in the memo which was attached to your letter.

- 1(a). It is my opinion that the purchase of the 1995 mullet strike net gear license would not suffice to qualify the fisherman under the provisions of Section 333.D.(1)(a) (e.g., "purchase a valid Louisiana commercial saltwater gill net license in 1995 ..."). It is my opinion that the saltwater gill net license referred to in the above subsection is a reference to, and only to, the saltwater gill net gear license previously referenced at R.S. 56:305.B.(4), the use of which was banned by Act 1316.
- 1(b). The regulations promulgated by the Commission regarding all proof of income qualifications provide for a certified copy of the original return from IRS. Therefore, a photostatic copy of a 1040 made prior to filing with IRS would not qualify under Act 1316 or the regulations.

Please be advised that the Department has taken steps to eliminate delays associated with receiving a certified return from the IRS by agreeing to accept copies of "transcripts" from IRS computer files which are prefaced with a letter from the district office stating that the transcript is true and correct. I am

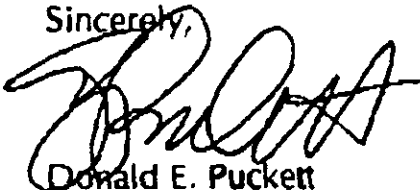
Senator Samuel B. Nunez  
October 6, 1995  
Page 2

informed that Department staff has contacted the various IRS offices throughout coastal Louisiana to facilitate this procedure.

2. Again, the law and the Commission regulations provide that the proof of income can only be based upon the form 1040 and Schedule C. Therefore, an affidavit will not suffice - only a certified copy of the 1995 return after it has been filed with the IRS.
3. The Department will give the fisherman credit for having a 1993 saltwater gill net license upon our confirmation of the facts recited and payment by the fisherman to the Department of the gear fee for the 1993 saltwater gill net license.
4. Only the fisherman in whose name the gill net gear license was purchased, as reflected on Department files, will be deemed to qualify with the provision requiring purchase of a saltwater gill net license.

Although we are aware that most of the above responses are contrary to the position that you would like for the Department to adopt, we hope that this at least clarifies the Department's position with regard to the qualification requirements. If I can provide you with any further information, please do not hesitate to call me.

Sincerely,



Donald E. Puckett  
General Counsel

c: Joe L. Herring  
Fredrick Prejean

# Louisiana Department of Wildlife and Fisheries

## NEWS RELEASE

Joe L. Herring  
Secretary



CONTACT  
(504) 765-2923

95-243

10/20/95

### SPECIAL WILDLIFE & FISHERIES COMMISSION MEETING SCHEDULED

The Louisiana Wildlife and Fisheries Commission has scheduled a special meeting for Wednesday, Oct. 25, 1995, to discuss issues regarding the Marine Resources Conservation Act (Act 1316 of the 1995 Louisiana legislature). The meeting will commence at **9 a.m.** in the Louisiana Room of Wildlife and Fisheries headquarters, 2000 Quail Dr., Baton Rouge.

The meeting is open to the public. The agenda is as follows.

1. Roll call.
2. Consideration of Declarations of Emergency and Notices of Intent and/or amendments of Notices of Intent and final rules listed below:
  - a. commercial fisherman's assistance program;
  - b. net buy-back program;
  - c. saltwater commercial rod and reel license;
  - d. spotted seatrout management measures;
  - e. rules for harvest of mullet; and
  - f. rules for harvest of black drum, sheepshead, and flounder, and other saltwater species using pompano strike nets;

Concerning changes to proof of income requirement for 1995 for a-f above.

3. Public comments.

4. Adjourn.

-30-

This public document was printed at a cost of \$2.94. Three hundred copies of this document were printed in this first and only printing. This document was printed by the Department of Wildlife and Fisheries, 2000 Quail Drive, Baton Rouge, LA 70808 to provide timely information about department programs for numerous interest groups and the general public. This document was printed in accordance with the printing standards for state agencies established pursuant to R.S. 43:31.

October 19, 1995

NEWS RELEASE

APPROVED: 

AGENDA FOR SPECIAL COMMISSION MEETING

The Louisiana Wildlife and Fisheries Commission has scheduled a Special Meeting for 9:00 A.M. on Wednesday, October 25, 1995, in the Louisiana Room at the Wildlife and Fisheries Building, 2000 Quail Drive, Baton Rouge, LA.

1. Roll Call
2. Consideration of Declarations of Emergency and Notices of Intent and/or Amendment of Notices of Intent and Final Rules Listed Below:
  - a) Commercial Fisherman's Assistance Program;
  - b) Net Buy-Back Program;
  - c) Saltwater Commercial Rod and Reel License;
  - d) Spotted Seatrout Management Measures;
  - e) Rules for Harvest of Mullet; and
  - f) Rules for Harvest of Black Drum, Sheephead and Flounder and Other Saltwater Species Using Pompano Strike Nets;
- Concerning Changes to Proof of Income Requirement for 1995.
3. Public Comments
4. Adjourn